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Executive Office of the D.C. Courts
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RE: Support for the Civil Regulatory Reform Task Force Recommendations

Dear Members of the Civil Legal Regulatory Reform Task Force:

We write as the leaders of Stanford Law School's Deborah L. Rhode Center on the Legal Profession (Rhode Center) to offer support for the recommendations detailed in the Task Force's July 2025 report. Thank you for the opportunity to share our perspective.

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the system's day-to-day reality. The statistics on self-representation referenced in the Task Force report, which could describe any jurisdiction in the country, are shocking but no longer surprising.[1] Worse, those pro se litigants are only a relatively small part of the story. They are eclipsed by the tens of millions of additional Americans we do not see because, although they may be confronting a significant legal problem—and, although they may well have a valid entitlement to relief under the formal

[1] NAT'L CTR. FOR STATE CTS., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 31 (2015) (noting that "the average percentage of cases in which both sides were represented by counsel was only 24 percent"); NAT'L CTR. FOR STATE CTS. ET AL., FAMILY JUSTICE INITIATIVE: THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURT 20 (2018) (finding that both the petitioner and respondent in divorce and separation cases were represented in 20% of cases). For the fact these statistics represent a significant uptick from prior decades, see DISTRICT OF COLUMBIA COURTS CIVIL LEGAL REGULATORY REFORM TASK FORCE, JULY 2025 REPORT 9 (2025) ("The earliest studies of self-representation date from the mid-1970s and found self-representation rates ranging from 2.7% of cases to approximately 20% of cases. As of 2015, according to the National Center for State Courts, more than three-quarters of civil cases in state courts involved at least one self-represented litigant.") [hereinafter D.C. TASK FORCE REPORT]; Nora Freeman Engstrom & David Freeman Engstrom, *The Making of the A2J Crisis*, 75 STAN. L. REV. 146, 150 (2024) (tracing the "significant growth in the proportion of [self-represented litigants] in state courts"). For a helpful compilation of additional evidence, see Judith Resnik et al., *Lawyerless Litigants, Filing Fees, Transaction Costs, and the Federal Courts: Learning from SCALES*, 119 NW. L. REV. 110, 110 n.3 (2024). In federal courts, one-fourth of plaintiffs—and about half of those who seek appellate review—"navigate the system without lawyer assistance." *Id*. at 110–11.

law—they are taking no steps to protect their interests.[2]

When individuals are on the receiving end of a lawsuit, the story is similar. Many would-be defendants also take no action, and this failure to act frequently results in default judgments.[3] In some areas and for some kinds of claims (chiefly, debt collection), default judgment rates approach or even exceed 90%.[4] A substantial portion of these default judgments are undeserved, meaning that the underlying claim was invalid.[5] Once these judgments issue, they frequently kick off their own dismal spiral of wage garnishments and home evictions.[6]

The brutal reality is that many Americans do not have any access to justice at all.[7]

What explains this?[8] The simplest answer relates to cost and the lack of affordable legal services, including free or subsidized help.[9] As the Task Force report notes, even moderate-

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[2] *See* LEGAL SERV. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 8 (2022) (reporting that low-income Americans "do not get any or enough legal help for 92% of the problems that have a substantial impact on them"); Nora Freeman Engstrom, *She Stood Up: The Life and Legacy of Deborah L. Rhode*, 74 STAN. L. REV. ONLINE 1, 8 (2021) (explaining that the "pro se litigants we see in court are merely the tip of the iceberg").

[3] *See* DAVID FREEMAN ENGSTROM ET AL., A BLUEPRINT FOR EXPANDING ACCESS TO JUSTICE IN LOS ANGELES SUPERIOR COURT'S EVICTION DOCKET 8 (2025) ("In consumer debt collection cases, multiple jurisdictions report default-judgment rates as high as 90–95%. In eviction, default-judgment rates range widely but several jurisdictions report rates from 20–40%.").

[4] *Id*.

[5] *Id*. at 8–9 (detailing the prevalence of "unjust resolution[s]" including debt collection judgments that "involve[e] debts that were paid off, never incurred, inflated, time-barred, or discharged in bankruptcy").

[6] For the fact default judgments often result in wage garnishments, see FREDERICK F. WHERRY & HANNAH HILL, DEBT COLLECTION LAB, HOW STATE POLICIES AFFECT COURT JUDGMENTS IN DEBT COLLECTION LAWSUITS: A COMPARATIVE STUDY ACROSS FOUR STATES 7 (2024); *see also* HAZEL GENN, PATHS TO JUSTICE 35 (1999) ("Certain types of situations can have a cascade effect. For example, threatened repossession of the family home can lead to marital strain and breakdown, marital health problems, leading to difficulties at work and problems in caring for children.").

[7] Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. & HAGUE INST. FOR INNOVATION OF L., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 235 (2021).

[8] For a deeper dive into this "why?" question, see generally Engstrom & Engstrom, *supra* note 1.

[9] *See id.* at 156 ("When asked why they are representing themselves, pro se litigants don't typically highlight their distrust of lawyers; they more often point to economic necessity."); Gillian K. Hadfield, *Legal Markets*, 60 J. ECON. LIT. 1264, 1291 (2022) ("The principal reason that so few individuals and small businesses avail themselves of legal services is cost and availability."). Some people, of course, refrain from hiring lawyers for noneconomic reasons. *See, e.g.,* Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1266–68 (2016). For the gaps in access to subsidized legal services see LEGAL SERV. CORP., *supra* note 2, at 9 (explaining that LSC-funded organizations do not have the resources necessary to meet individuals' demand for services and, as a result, one in two otherwise-eligible Americans who actually seek help are turned away).

income D.C. residents can struggle to afford a lawyer at $291 an hour.[10] Legal services are so expensive, in part, because modern unauthorized practice of law (UPL) rules—which tend to be both vague and capacious[11]—force a person seeking help with a legal problem through one of two doors: hire Cadillac counsel or forgo representation (and action) entirely.[12] UPL laws exist, it is said, to protect consumers from "unqualified and incompetent practitioners."[13] They also exist, as one of us has demonstrated, because, under the shadow of the Great Depression, the organized bar undertook a coordinated and explicitly protectionist campaign against unlicensed individuals, as well as corporate entities providing legal services.[14]

Over the past half-century, well-intentioned policymakers have introduced a bevy of reforms to fill the yawning justice gap. Most of them have been lawyer-centric: encourage (or, more controversially, require) more pro bono service from lawyers; increase funding for legal aid; establish more moderate-means programs. The Task Force report correctly concludes that these traditional interventions "will not scale at the pace and the magnitude necessary to address the problem."[15] Nontraditional solutions, too, have fallen short. Prepaid legal services and legal insurance, for example, were once seen as a promising solution to cover unmet legal need. At one time, thousands of plans were in operation. But they did not—and will not—

[10] D.C. TASK FORCE REPORT, *supra* note 1, at 10.

[11] As Justice Douglas lamented as far back as 1967: "The line that marks the area into which the layman may not step except at his peril is not clear." Hackin v. Arizona, 389 U.S. 143, 150 (1967) (Douglas, J., dissenting). More recently, Justice Gorsuch observed that "the definitions states have adopted, usually at the behest of local bar associations, are often breathtakingly broad and opaque." Neil M. Gorsuch, *Access to Affordable Justice*, 100 JUDICATURE 46, 48 (2016). For further discussion, see Bruce A. Green, *Should State Trial Courts Become Laboratories of UPL Reform?*, 92 FORDHAM L. REV. 1285, 1289 (2024); Lauren Sudeall, *The Overreach of Limits on "Legal Advice,"* 131 YALE L.J.F. 637 (2022).

[12] Engstrom, *supra* note 2 (remembering Deborah Rhode's work in civil access to justice and broader impact on the legal profession).

[13] Model Code of Prof'l Responsibility EC 3-1 (1980) (declaring that "[t]he prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence"); Matthew Longobardi, *Unauthorized Practice of Law and Meaningful Access to the Courts: Is Law Too Important to Be Left to Lawyers?*, 35 CARDOZO L. REV. 2043, 2048–49 (2014) ("Several different rationales have been put forward in defense of UPL rules, but the main justification is that UPL prohibitions protect consumers from unqualified and incompetent practitioners."); Donald T. Weckstein, *Limitations on the Right to Counsel: The Unauthorized Practice of Law*, 1978 UTAH L. REV. 649, 650 (1978) ("The most frequently stated purpose of prohibiting non-lawyers from practicing law is to protect the public from incompetent and unethical performance").

[14] Nora Freeman Engstrom & James Stone, *Auto Clubs and the Lost Origins of the Access-to-Justice Crisis*, 134 YALE L.J. 123 (2024) (surfacing the lost history of America's auto clubs and the rotten roots of today's UPL bans). For a multifaceted look at the lawyers' monopoly see RETHINKING THE LAWYERS' MONOPOLY: ACCESS TO JUSTICE AND THE FUTURE OF LEGAL SERVICES (David Freeman Engstrom & Nora Freeman Engstrom eds., 2025).

[15] D.C. TASK FORCE REPORT, *supra* note 1, at 11–12. In reaching this conclusion, the D.C. Task Force joins the Conference of Chief Justices, which, in 2020, officially declared that "traditional solutions . . . such as increased funding for civil legal aid, more pro bono work, or court assistance programs . . . are not likely to resolve the gap." CONFERENCE OF CHIEF JUSTICES, RESOLUTION 2 URGING CONSIDERATION OF REGULATORY INNOVATIONS REGARDING THE DELIVERY OF LEGAL SERVICES (2020).

make a dent in the access to justice crisis.[16]

This is not to say that we are completely lacking solutions involving other providers. A robust ecosystem of self-help resources for unrepresented litigants has developed in courts and community organizations. Similarly, legal and justice technology companies now dot the DIY landscape. But there remain countless numbers of people who need help beyond legal information.[17] They need legal *services*. And this is why a growing number of jurisdictions are turning to new, nonlawyer providers to help.

Yet, many policymakers are still uncertain: is it sensible to invite nonlawyers into the fold? Evidence suggests it is.

To assist policymakers as they explore ways that nonlawyers could help to close the civil justice gap, two of us have spent hundreds of hours compiling the best evidence currently available on the issue of whether nonlawyers can furnish legal services with competence and integrity. Here is what we know, in brief: Consumers want legal help, including from nonlawyers.[18] And qualified nonlawyers can be competent and effective. Indeed, a battery of studies, assessing different settings, at different times, and using different metrics, finds that trained nonlawyers can perform as well as, or sometimes better than, their JD-toting counterparts.[19]

We briefly summarize key research on nonlawyer service providers and have attached to this comment a draft of our forthcoming law review article, "Unauthorized Practice: Assessing

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[16] *See* Nora Freeman Engstrom, *Legal Insurance and Its Limits*, 124 MICH. L. REV. 1 (2025) (exploring the county's first experiment with legal insurance in the 1970s and arguing that while "it is undeniably seductive to think the access-to-justice crisis can be addressed in a way that benefits lawyers . . . those who actually want to address the access-to-justice crisis need to look somewhere else.").

[17] For how UPL laws restrict the provision of legal advice by courthouse personnel, see David Freeman Engstrom & Nora Freeman Engstrom, *Courthouse UPL* (forthcoming 2026). For how UPL laws impede the development of litigant-facing technology, see Engstrom & Engstrom, *supra* note 1, at 163.

[18] *See*, *e.g.*, NATALIE ANNE KNOWLTON, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., CASES WITHOUT COUNSEL: OUR RECOMMENDATIONS AFTER LISTENING TO THE LITIGANTS 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. FOR SOC. JUSTICE 66, 97–100 (2024); Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 STAN. J. CIV. RTS. & CIV. LIBERTIES 283, 289–97 (2020).

[19] *See*, *e.g.*, MARY E. MCCLYMONT, GEO. JUST. LAB, NONLAWYER NAVIGATORS IN STATE COURTS: AN EMERGING CONSENSUS (2019); REBECCA L. SANDEFUR & THOMAS M. CLARKE, AM. B. FOUND., NAT'L CTR. FOR STATE CTS. & PUB. WELFARE FOUND., ROLES BEYOND LAWYERS: EVALUATION OF THE NEW YORK CITY COURT NAVIGATORS PROGRAM (2016); DAVID KRAFT ET AL., FIVE YEAR REVIEW OF PARALEGAL REGULATION: RESEARCH FINDINGS. FINAL REPORT FOR THE LAW SOCIETY OF UPPER CANADA 6 (2012); HERBERT M. KRITZER, LEGAL ADVOCACY: LAWYERS AND NONLAWYERS AT WORK (1998); Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315 (2021); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 LAW & SOC'Y REV. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, JOTWELL, Oct. 31, 2022.

Available Evidence," which goes into much more detail on these, and other, research efforts.[20]

Evidence on Nonlawyer Legal Service Providers

We place the evidence on nonlawyer providers into three categories: 1) anecdotal accounts, mostly from federal agency assessments of their own nonlawyer practice; 2) rigorous empirical research comparing nonlawyers to lawyers; and 3) recent studies assessing the value of nonlawyer representation in community justice worker (CJW) and licensed legal practitioner (LLP) programs.

I. Anecdotal Agency Assessments

The most prominent area of nonlawyer practice has been, and continues to be, before federal administrative agencies.[21] We have compiled historical appraisals of nonlawyer activity which suggest that, in the following agencies, nonlawyer practice has enhanced, rather than impeded, administrative processes: the Veterans' Administration,[22] the then-Federal Security Agency,[23] the then-Interstate Commerce Commission,[24] the U.S. Patent Office,[25] the Board of Veterans' Appeals,[26] and the Social Security Administration (SSA).[27]

The Administrative Conference of the United States (ACUS), back in the 1980s and again very recently, has affirmed the value of nonlawyer representation and explicitly encouraged

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[20] Nora Freeman Engstrom & Natalie Anne Knowlton, *Unauthorized Practice: Assessing Available Evidence*, 64 B.C. L. REV. (forthcoming 2026).

[21] Some agencies, for example the U.S. Patent Office, have *always* permitted nonlawyer practice. *See* Sperry v. State of Fla. ex rel. Fla. Bar, 373 U.S. 379, 388 (1963) (noting that "nonlawyers have practiced before the [U.S. Patent] Office from its inception" and that this authority was formalized in 1869). The lay representation of veterans dates back to at least 1862, and nonlawyers' (primarily accountants') representation of taxpayers has a similar historical pedigree. *See*, *e.g.*, AM. BAR ASS'N COMM'N ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW-RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 25 (1995); *Practice Before Government Agencies: Hearings Before Subcomm. No. 2 of the H. Comm. on the Judiciary*, 80th Cong. 85 (1948) [hereinafter 1948 Hearing] (statement of Spencer Gordon, Counsel, American Institute of Accountants) ("[A]ccountants from earliest times have been admitted to practice before the Treasury Department, and they practice there now.").

[22] ADMINISTRATIVE PROCEDURE IN GOVERNMENT AGENCIES, MONOGRAPH OF THE ATTORNEY GENERAL'S COMMITTEE ON ADMINISTRATIVE PROCEDURE, IN 13 PARTS, PART 2: VETERANS' ADMINISTRATION 38 (1940).

[23] 1948 Hearing, *supra* note 21, at 445–46 (statement of Maurice Collins, Acting Administrator, Federal Security Agency).

[24] *Id*. at 191, 195, 452–53 (containing statements of the ICC's then-Chairman and representatives of the Association of ICC Practitioners).

[25] Sperry v. State of Fla. ex rel. Fla. Bar, 373 U.S. 379, 403 (1963).

[26] Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 327 (1985).

[27] Jacob M. Wolf, *Nonlawyer Practice before the Social Security Administration*, 37 ADMIN. L. REV. 413, 415 (Fall 1985).

agencies to facilitate broader practice by nonlawyers in different adjudication types.[28] ACUS Recommendation 2024-7, published in late 2024, calls on agencies to (among other things) "permit nonlawyers … to assist participants throughout the adjudicative process" and to "encourage and expand opportunities for nonlawyer assistance through programs that authorize, educate, and/or certify individuals to provide participants with information, support, and dedicated assistance."[29]

II. Empirical Research Comparing Nonlawyers to Lawyers

On the other end of the spectrum, a more rigorous tranche of empirical research offers quantitative comparisons between nonlawyer representatives, lawyers, and pro se litigants. Here, we have evidence both from the U.S. and overseas.

a. Evidence from the United States

The first study that pits lawyers against nonlawyers was undertaken in 1933 by Charles Clark, then Dean of Yale Law School, and Emma Corstvet, at the behest of the Association of American Law Schools.[30] Exploring the question of lawyer's service to the general public and how legal needs were being met, researchers interviewed 412 individuals and 61 businesses, about half of which had at least one legal transaction in the past year.[31] Of the individuals experiencing such a transaction, 35% sought some sort of outside advice, mostly from a lawyer (86%) but some from a nonlawyer adviser (14%). Those seeking outside advice were more likely to be satisfied by the outcome, but interestingly, the individuals turning to nonlawyer advisers expressed a *higher* level of satisfaction than did those who consulted lawyers.[32]

Two additional sources come from the 1980s. At that time, Professors Donald Duquette and Sarah Ramsey sought to assess representation of children in child abuse and neglect cases, wherein a range of specially trained nonlawyer providers—including law students and lay volunteers—represented children.[33] Their work yielded two striking findings. First, trained

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[28] Nonlawyer Assistance and Representation (Recommendation No. 86-1), 51 Fed. Reg. 25641, 25641-25642 (July 16, 1986) (citations omitted). In December 2024, ACUS expanded on this and related recommendations by issuing best practices "for incorporating and increasing representation and assistance by permitting broader practice by nonlawyers in different types of adjudicative systems." Nonlawyer Assistance and Representation in Agency Adjudications (Recommendation 2024-7), 89 Fed. Reg. 106409, 106409 (Dec. 30, 2024) [hereinafter ACUS Recommendation 2024-7).

[29] ACUS Recommendation 2024-7, *supra* note 28, at 5.

[30] Charles E. Clark & Emma Corstvet, *The Lawyer and the Public: An A.A.L.S. Survey*, 47 YALE L.J. 1272 (1938).

[31] *Id*. at 1273, 1276.

[32] *Id*. at 1277–79, 1281. According to Clark and Corstvet, "[t]he reasons given for dissatisfaction with the lawyer were various: Many charged him with fraud, incompetence, delay; one that he lost the case." *Id*. at 1281.

[33] Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341, 351–58 (1987). The trained nonlawyers included both nonlawyer volunteers and law students.

nonlawyers significantly outperformed untrained court-appointed lawyers on various process measures (e.g., investigation, contact with child and family, advocacy) and outcomes measures (e.g., more specific court orders for treatment and assessment, quicker case resolutions, and fewer court hearings taken to resolve the case).[34] Second, although trained nonlawyers performed markedly better than untrained lawyers, they performed just as well as trained lawyers.[35]

In a major study published the following year, Zona Fairbanks Hostetler reached a similar conclusion. For this study, prepared at the behest of the Administrative Conference of the United States, Hostetler focused on the SSA and the Immigration and Naturalization Service.[36] Evaluating outcome data, she found that individuals represented by nonlawyers fared nearly as well as those represented by lawyers and, crucially, substantially better than those without representation.[37] Fortifying her quantitative results with interviews of agency officials and representatives from legal aid and social services agencies, Hostetler discovered: "[T]here is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[38] Interviewees further reported that "their experience indicated that nonlawyers could be trained to perform virtually all functions in administrative agency proceedings."[39]

In 1990, the State Bar of California published a series of surveys concerning "legal technicians" (nonlawyer professionals), one of which compiled the views of California consumers who had appeared in court without a lawyer.[40] Over half of the respondents (53%) reported that, although they formally appeared pro se, "someone helped them prepare their court papers."[41] Of these helpers, one-quarter had been lawyers; three-quarters had been nonlawyers.[42] The researchers found: "64% of those who received some assistance from lawyers were happy overall with the service and 67% would use a lawyer again." Interestingly, though, "of those who received assistance from a [nonlawyer] 76%"—which is to say, a higher percentage—"were happy with the service and would use such a provider again."[43] This would suggest that California's consumers were comparatively *more* satisfied with services furnished by nonlawyer providers.

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[34] *Id*. at 342–43, 350–56, 365–66, 389.

[35] *Id*. at 362, 390 (summarizing their finding that "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training").

[36] These were two agencies where nonlawyers can represent individuals. Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 85, 87 (1988).

[37] *Id.* at 88.

[38] *Id*. at 103–04.

[39] *Id.* at 105.

[40] REPORT OF THE STATE BAR OF CAL. COMM'N ON LEGAL TECHNICIANS 14 (1990).

[41] *Id*. Exhibit 2 at 2.

[42] *Id*. at 2–3.

[43] *Id.* at 14.

Also in the 1990s, Herbert Kritzer, a prominent political scientist and law professor, compared the effectiveness of lawyers and nonlawyers (here, qualified lay agents) in the context of four administrative settings in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration.[44] Through observation, outcome analysis, and supplemental interviews, Kritzer found nonlawyers to be effective in three of the four settings that he studied. He broadly concluded that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[45]

In 2000, Elaine Tackett conducted a rigorous survey of Administrative Law Judges (ALJs) concerning representatives in the SSA.[46] She found that a slight majority of ALJs (60%) ranked nonlawyer representation as good or satisfactory, compared to 88% of ALJs who gave attorneys a passing grade.[47] When asked who furnished *better* representation, 34% said that nonlawyers outperformed lawyers, while 65% said the opposite. All told, Tackett concluded that, in the SSA, nonlawyers, "overall . . . provide competent representation," even though most ALJs also believed that lawyers furnished somewhat higher-quality services.[48]

Then, in 2017, Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan studied legal representation in D.C.'s Office of Administrative Hearings (OAH).[49] Focusing on the employer side of the equation,[50] Carpenter et al. found in the aggregate that lawyer-represented employers outperformed nonlawyer-represented employers across various metrics. Lawyers were more likely to ensure client attendance at hearings, disclose and introduce documents, and present witness testimony.[51] When an unrepresented worker squared off against a lawyer-represented employer, the worker won only 47.6% of the time; the rate jumped to 67.5% when the worker squared off against a nonlawyer.[52] Yet, these disparities vanished in the subset of cases where a nonlawyer representative actually *appeared* at the hearing.[53] In *those* cases, nonlawyers notched comparable win rates to their JD-toting counterparts, although, even there, nonlawyers were somewhat more constrained in the ways they challenged judges on issues of substantive law or procedure.

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[44] KRITZER, *supra* note 19, at 21–22.

[45] *Id*. at 100.

[46] Elaine Tackett, *Paralegal Representation of Social Security Claimants: A Study of the Perceptions of Social Security Administrative Law Judges on the Quality of Representation of Social Security Claimants by Paralegals*, 16 J. PARALEGAL EDUC. & PRAC. 67 (2000).

[47] *Id*. at 70.

[48] *Id*. at 73.

[49] Anna E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 LAW & SOC. INQUIRY 1023 (2017). OAH is an administrative court that hears de novo appeals from underlying District determinations regarding a worker's qualification for unemployment benefits.

[50] That is where nonlawyers—who tended to be HR-firm employees—frequently supplied representation.

[51] Carpenter, Mark & Shanahan, *supra* note 49, at 1042.

[52] *Id.* at 1040–41.

[53] In many hearings, the nonlawyer, ostensibly representing the employer, never showed up. *Id.* at 1041, 1044.

b. Evidence from Overseas

In the 1980s, at the request of the then-Lord Chancellor's Department, Professors Hazel Genn and Yvette Genn studied nonlawyer performance and how representatives influenced outcomes for claimants in administrative tribunals in England and Wales.[54] Drawing on over 3,700 case files and nearly 500 observed hearings, the researchers' central finding was that representation, of any kind, significantly increased claimants' odds of success.[55] To fortify their quantitative research, Genn and Genn also conducted 735 interviews; these interviews revealed that "[f]ew . . . believe that lawyers were necessarily best equipped to conduct representation in tribunals."[56]

In the late 1990s, Richard Moorhead, Avrom Sherr, and Alan Paterson took the baton and examined the differences between nonlawyers and lawyers (specifically, solicitors) in welfare benefits, debt, housing, and employment cases in England and Wales.[57] The research effort is notable for its rigor, leveraging quantitative data, an external peer-review process, and anonymous "model clients."[58] Across a broad range of measures, Moorhead et al. found that nonlawyers were not only effective but, in many respects, *outperformed lawyers*. In terms of client satisfaction, nonlawyer advisers scored slightly higher overall: 76% of nonlawyer clients rated their service as excellent or very good compared to 70% of solicitor clients, with statistically significant differences favoring nonlawyers across several dimensions such as emotional attentiveness, having enough time for them, and perceived advocacy.[59] Outcome data further supported nonlawyer effectiveness: clients of nonlawyers were more likely to obtain concrete benefits such as lump sum payments, new or increased regular payments, and the prevention of adverse third-party action.[60]

In 2011, a team of experts in England and Wales assessed the quality of 101 wills prepared by a mix of solicitors and non-solicitor providers. The findings were sobering: 25% of wills were assessed as failing to meet basic quality standards. But critically, the experts found *no difference* in the failure rates; whether prepared by a solicitor or non-solicitor, quality remained constant.[61]

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[54] HAZEL GENN & YVETTE GENN, THE EFFECTIVENESS OF REPRESENTATION AT TRIBUNALS: REPORT TO THE LORD CHANCELLOR (1989).

[55] *Id*. at 7, 243.

[56] *Id*. at 245.

[57] Richard Moorhead et al., *supra* note 19, at 777. The researchers capitalized on a rare opportunity provided by a large-scale pilot program (the Civil Nonfamily Block Contracting Pilot), which introduced a contested market between solicitors and not-for-profit nonlawyer agencies. *Id.* at 775.

[58] *Id*. at 775–82.

[59] *Id.* at 785–86.

[60] *Id.* at 786–87.

[61] LEGAL SERVS. CONSUMER PANEL, REGULATING WILL WRITING 2–3 (2011).

III. Emerging Research on the Value of Nonlawyer Service Delivery

Finally, emerging research from nascent nonlawyer provider programs in the United States—those listed in Appendix G of the Task Force report—is providing new insight into the value of nonlawyer legal service delivery. While these studies are necessarily limited given the early days of the programs, they are nevertheless of interest for legal policymakers looking to pursue similar approaches.

In the context of community justice worker (CJW) programs, our research compiled reports from two jurisdictions. The Alaska Legal Services Corporation's CJW program is perhaps the most well-known of its sort. During the 2022–2023 SNAP crisis in Alaska, approximately 60 CJWs were trained to take SNAP cases, expanding the reach of the then-25 staff attorneys at Alaska Legal Services. These CJWs were able to close nearly 500 cases and recover $1.43 million in food security benefits for clients.[62] Their success rate in resolving clients' SNAP delay issues: 100%.[63]

Authorized through the Utah legal regulatory sandbox, CJWs at the Timpanogos Legal Center helped clients seek a total of 225 domestic violence protective orders.[64] Notably, "clients receiving legal services from an advocate [were] roughly twice as likely to receive a protective order," as compared to individuals generally (who reflected a mix of lawyer-represented and self-represented individuals).[65]

Of the Licensed Legal Practitioner (LLP) programs, evaluations of three states have been conducted to date. In Washington, the Limited License Legal Technician (LLLT) program is no longer accepting new practitioners, following a Washington Supreme Court decision to sunset the program, but LLLTs continue to serve clients in the state. Findings from two, separate evaluations of the program—one conducted in 2017 (15 months into the program) and one conducted in 2021 (after the program's closure)—suggest that LLLT clients had favorable things to say about their experience.[66] Furthermore, in the *post mortem* assessment, system stakeholders that worked with LLLTs (attorneys, judges, and commissioners) expressed

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[62] Joy Anderson et al., *Community Justice Workers: Part of the Solution to Alaska's Legal Deserts*, 41 ALASKA L. REV. 9, 12–15 (2024).

[63] *Id*. at 19–20.

[64] CHRISTIAN ABASTO ET AL., INCREASING ACCESS TO JUSTICE THROUGH COMMUNITY JUSTICE WORKERS: A PROPOSAL FOR CALIFORNIA 8 (2024).

[65] *Id*. at 9.

[66] Thomas Clarke and Rebecca Sanderfur published a study in 2017, evaluating the early implementation of the program. Several years later, in 2021, the Rhode Center conducted a *post mortem* evaluation. THOMAS M. CLARKE & REBECCA L. SANDEFUR, PRELIMINARY EVALUATION OF THE WASHINGTON STATE LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 9 (2017) (finding that clients "uniformly reported that LLLTs provided competent assistance" and further that "their legal outcomes were improved by utilizing the services of LLLTs."); JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 9 (2021) (finding that clients described "overwhelmingly positive experiences with LLLTs.").

satisfaction with the LLLTs' work.[67] A number of judges and commissioners reported efficiency gains in cases involving LLLTs; some even reported that "LLLT work product is often higher quality and easier for the court to consume than attorney work product."[68]

An interim evaluation of Minnesota's Legal Paraprofessional (LP) program (then in a pilot phase) included surveys of LP clients, supervising attorneys, and judges. A majority of LP clients responding to the survey reported favorable views on LP services.[69] Further, a majority of judge respondents "agreed that paraprofessionals displayed appropriate decorum in the courtroom," "reported paraprofessionals were aware of applicable court rules," and "agreed that paraprofessionals observed courtroom courtesies."[70] Notably, supervising attorneys reported being "[*v*]*ery satisfied* with the quality of work provided by paraprofessionals under their supervision, and no respondents reported being dissatisfied."[71]

Finally, the assessment of Arizona's Legal Paraprofessional (LP) program found that surveyed clients had high opinions of LPs.[72] Surveyed judges agreed LPs were aware of applicable rules and displayed appropriate decorum.[73] And majorities of attorney respondents agreed to these points, but to lesser extent than did the judge respondents.[74] Slight majorities of surveyed attorneys and judges agreed "that hearings with a LP take less time than hearings with self-represented litigants" although these respondent groups also agreed that LPs "take longer in hearings than an attorney."[75]

Conclusion

Lawyers are—and should remain—the beating heart of the legal services ecosystem. But nonlawyers, when assisting and representing clients across a range of legal domains, consistently provide competent, and often high-quality, assistance. The Task Force's CJW and LLP reform recommendations are a critical component of wider efforts to open up the legal services marketplace to new, access-expanding models for delivering legal services to those most in need of them. These programs lay a foundation for innovative future reforms that can

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[67] SOLOMON & SMITH, *supra* note 66, at 12–13.

[68] *Id*. at 13.

[69] STANDING COMM. FOR LEGAL PARAPRO. PILOT PROJECT, MINN. SUP. CT., FINAL REPORT AND RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT 8 (2024) (finding that 15 out of 17 clients were satisfied or very satisfied with the services they received, and the same number were likely or very likely to recommend LP services to their friends or family).

[70] *Id*.

[71] *Id*. at 7.

[72] One hundred percent of the client respondents were satisfied or highly satisfied with the services they received and with how their LP responded to their case and their needs. ARIZ. SUP. CT., ASSESSING ARIZONA'S LEGAL PARAPROFESSIONALS: 2024 PROGRAM SURVEY 22 (2024).

[73] *Id*. at 19.

[74] *Id*. They also agreed that LPs could benefit from additional training on evidentiary and procedural rules. *Id*.

[75] *Id*. at 14.

leverage artificial intelligence in responsible ways to serve people at scale and also make possible new law firm service delivery models that better serve consumers.[76]

We applaud the Task Force and D.C. Courts for their vision in this effort and in moving the legal services sector toward a more accessible, affordable, and equitable future.

Sincerely,

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Attachment

[76] For an overview of the various flavors of regulatory reform see DAVID FREEMAN ENGSTROM ET AL., DEBORAH L. RHODE CTR. ON THE LEGAL PRO., LEGAL INNOVATION AFTER REFORM: FIVE YEARS OF DATA ON REGULATORY CHANGE (2025) (reporting on a qualitative and quantitative analysis of the applications submitted by entities active in the Arizona alternative business structure license program and the Utah legal regulatory sandbox).

UNAUTHORIZED PRACTICE: ASSESSING AVAILABLE EVIDENCE

Nora Freeman Engstrom & Natalie Anne Knowlton[†]

A debate is now raging concerning whether to relax the rules that govern the provision of legal services, to welcome nonlawyers into the fold. In recent years, roughly a dozen states have taken precisely this step, seeking to expand access to those currently priced out of the legal services marketplace. But in other places, reform efforts have stalled, derailed by claims that lawyers—and lawyers alone—have the training, education, and experience to supply high-quality assistance.

The stakes of this debate are sky high: The legal profession is large and influential, courts are crucial, and the access-to-justice crisis at issue—the problem that has set states' reform efforts in motion—is staggering. But the debate, itself, backstops on a question that's surprisingly straightforward: Can nonlawyers furnish legal services with competence and integrity? Or alternatively, to navigate our labyrinthian legal system, must one have comprehensive know-how of the kind only licensed lawyers possess?

Wading into this debate, we compile the best evidence currently available. After canvassing nearly a century of research conducted at different times, in different places, using a wide array of methodologies, we conclude that specially trained nonlawyers can, indeed, supply high-quality help. The notion that having a law

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> *degree is a necessary predicate to offering legal services with "integrity and competence" may be well engrained. And, for those of us in the legal profession, it's surely convenient and comforting. But it's an idea that, when empirically tested, simply doesn't hold up.*

INTRODUCTION

Texas, recently, was on the cusp of fundamental change. The change at issue? The Lone Star State was on the verge of permitting "paraprofessionals to represent and assist low income Texans with certain matters in certain areas of the law."[1] The effort began on October 24, 2022, when the Texas Supreme Court, alarmed by a rising tide of self-represented litigants, asked a Working Group to come up with a responsible way to authorize nonlawyer practice.[2] The Working Group took the baton and got to work. By December 2023, it had put the finishing touches on a detailed and nuanced plan, and by August of the following year, the Supreme Court seemed ready to enact the proposal.[3]

Yet, there was a catch. Even as the reform was moving forward, a blizzard of blistering comments was pouring in, questioning the notion that nonlawyers could provide high-quality assistance. "[T]he complexity of our legal system," one commenter summarized, "demands the comprehensive education and skills that only licensed lawyers possess."[4] "Nonlawyers," another sniffed, would provide mere "pseudo-representation"—a vastly inferior lawyer lite.[5] Critics' claims, essentially, were that the relaxation of the lawyer monopoly might be well-intentioned but would ultimately backfire, perversely hurting the very people reformers were seeking to assist.[6] Ultimately,

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[1] REPORT AND RECOMMENDATIONS OF THE TEXAS ACCESS TO LEGAL SERVICES WORKING GROUP 1 (2023).

[2] Letter from J. Brett Busby, Justice, Tex. Sup. Ct., to Harriet Miers, Chair, Tex. Access to Just. Comm'n, Oct. 24, 2022, https://www.texasatj.org/sites/default/files/2022_10%20ATJC%20Referral%20Letter%20%281%29_1.pdf.

[3] Preliminary Approval of Rules Governing Licensed Legal Paraprofessionals and Licensed Court-Access Assistants, Misc. Docket No. 24-9050 (Tex. 2024).

[4] Public Comments, available at https://www.texasatj.org/sites/default/files/ALL%20Written%20Public%20Comments_April%202%20Update.pdf.

[5] *Id*.

[6] As one commenter ominously put it: To relax the existing regulatory scheme would "play[] into the hands of people who already take advantage of the poor." *Id*.

in the face of this sharp resistance, the paraprofessional idea in Texas was, at least temporarily, shelved.[7]

This Article, essentially, picks up where that story lets off. It interrogates the claims of the above critics—and it does so because this basic story is playing out, not just in the Lone Star State, but across the country.

Back in 2022, the Texas Supreme Court convened its Working Group because Texas—like other states—is confronting a justice gap that is sizable and scandalous. These days, only about a quarter of cases see lawyers on both sides; three-quarters of the time, at least one side is unrepresented, a significant uptick from prior decades.[8] This onslaught of pro se representation has costs. As compared to represented individuals, unrepresented individuals require more judicial hand-holding (which takes time) and are also far more likely to lose, which means that, frequently, "deficiencies in procedure—not the merits of a case—drive outcomes."[9] This, in turn, fuels a pernicious perception that law "applies not to all and not equally, as

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[7] Ryan Autullo, *Texas Pauses Rules Permitting Limited Paralegal Legal Services*, BLOOMBERG L., Jan. 24, 2025; Ryan Autullo, *Texas Lawmakers Warn Court on Paralegal Services 'Grave Mistake,'* BLOOMBERG L., Feb. 25, 2025.

[8] NAT'L CTR. FOR STATE CTS., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 31 (2015) [hereinafter CIVIL LANDSCAPE REPORT] (noting that "the average percentage of cases in which both sides were represented by counsel was only 24 percent"); FAMILY JUSTICE INITIATIVE: THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURT 20 (2018) [hereinafter FAMILY LANDSCAPE REPORT] (finding that both the petitioner and respondent in divorce and separation cases were represented in 20% of cases). For the fact these statistics represent a significant uptick from prior decades, see DISTRICT OF COLUMBIA COURTS CIVIL LEGAL REGULATORY REFORM TASK FORCE 9 (2025) [hereinafter D.C. TASK FORCE REPORT]; Nora Freeman Engstrom & David Freeman Engstrom, *The Making of the A2J Crisis*, 75 STAN. L. REV. 146, 150 (2024). For a helpful compilation of additional evidence, see Judith Resnik et al., *Lawyerless Litigants, Filing Fees, Transaction Costs, and the Federal Courts: Learning from SCALES*, 119 NW. L. REV. 110, 110 n.3 (2024). In federal courts, one-fourth of plaintiffs—and about half of those who seek appellate review—"navigate the system without lawyer assistance." *Id*. at 110–11.

[9] THE GEORGIA SUPREME COURT STUDY COMMITTEE ON LEGAL REGULATORY REFORM, REPORT AND RECOMMENDATIONS 17 (2025) [hereinafter GEORGIA REPORT]. For further discussion of the long odds self-represented litigants face, see *infra* note 284.

promised, but only to people of means," which, some believe, "threatens the integrity of the rule of law itself."[10]

Worse, those pro se litigants—the folks we see in courts around the country—are only a relatively small part of the story. They are eclipsed by the tens of millions of additional Americans we do not see because, although they may be confronting a significant legal problem—and, although they may well have a valid entitlement to relief under the formal law—they are taking no steps to protect their interests.[11] This inaction has both direct and cascading consequences: A person who can't vindicate her rights to overtime pay, workers' compensation benefits, or child support obviously suffers economically. And, when laws are not enforced, the cost of disobedience drops.[12]

When individuals are on the receiving end of a lawsuit, the story is similar. Many would-be defendants also take no action, and this failure to act frequently results in default judgments.[13] In some areas and for some kinds of claims (chiefly, debt collection), default judgment rates approach or even exceed 90%.[14] A substantial portion of these default judgments are undeserved, meaning that the

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[10] *Closing the Justice Gap: How to Make the Civil Justice System Accessible to All Americans: Hearing Before the S. Comm. on the Judiciary*, 118th Cong. 3 (2024) (statement of Hon. Nathan L. Hecht, C.J. of the Sup. Ct. of Tex.) [hereinafter Hecht Testimony]; *see also* GEORGIA REPORT, *supra* note 9, at 17 ("[Self-representation] can lead to a decrease in trust of the justice system, as people feel that they do not even have a chance at a fair outcome, which can harm the system's legitimacy.").

[11] *See* LEGAL SERV. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 8 (2022) (reporting that low-income Americans "do not get any or enough legal help for 92% of the problems that have a substantial impact on them").

[12] *E.g.,* James M. Anderson et al., *Empirical Tort Law (and Theory)—An Essay in Honor of Deborah Hensler* (working paper, 2025) (tracing the dismal consequences that follow from would-be tort plaintiffs' failure to vindicate their rights).

[13] *See* DAVID FREEMAN ENGSTROM ET AL., A BLUEPRINT FOR EXPANDING ACCESS TO JUSTICE IN LOS ANGELES SUPERIOR COURT'S EVICTION DOCKET 8 (2025) ("In consumer debt collection cases, multiple jurisdictions report default-judgment rates as high as 90-95%. In eviction, default-judgment rates range widely but several jurisdictions report rates from 20-40%.").

[14] *Id*.

underlying claim was invalid.[15] Once these judgments issue, they frequently kick off their own grim spiral of wage garnishments and home evictions.[16]

What explains this?[17] The simplest answer is that even relatively inexperienced lawyers cost roughly $300 per hour, far more than many people can afford.[18] People don't hire lawyers because lawyers are too expensive to be hired.[19] Then, although some free or subsidized legal help is theoretically available, only individuals below certain poverty thresholds tend to be eligible, and, of those who *are* eligible, half are turned away.[20] Legal aid organizations simply do not have the resources they need to supply assistance to the millions of Americans who need—and actually seek—help.

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[15] *Id*. at 8–9 (detailing the prevalence of "unjust resolution[s]" including debt collection judgments that "involve[e] debts that were paid off, never incurred, inflated, time-barred, or discharged in bankruptcy").

[16] For the fact default judgments often result in wage garnishments, see FREDERICK F. WHERRY & HANNAH HILL, DEBT COLLECTION LAB, HOW STATE POLICIES AFFECT COURT JUDGMENTS IN DEBT COLLECTION LAWSUITS: A COMPARATIVE STUDY ACROSS FOUR STATES 7 (2024); *see also* HAZEL GENN, PATHS TO JUSTICE 35 (1999) ("Certain types of situations can have a cascade effect. For example, threatened repossession of the family home can lead to marital strain and breakdown, marital health problems, leading to difficulties at work and problems in caring for children.").

[17] For a deeper dive into this "why?" question, see generally Engstrom & Engstrom, *supra* note 8.

[18] For the $300 per hour figure, see U.S. ATT'Y OFF. FOR D.C., CIV. DIV., ATTORNEY'S FEES MATRIX—2015-2021. *See also* Nora Freeman Engstrom & James Stone, *Auto Clubs and the Lost Origins of the Access-to-Justice Crisis*, 134 YALE L.J. 123, 182–83 (2024) (discussing additional challenges).

[19] *See* Engstrom & Engstrom, *supra* note 8, at 156 ("When asked why they are representing themselves, pro se litigants don't typically highlight their distrust of lawyers; they more often point to economic necessity."); Gillian K. Hadfield, *Legal Markets*, 60 J. ECON. LIT. 1264, 1291 (2022) ("The principal reason that so few individuals and small businesses avail themselves of legal services is cost and availability."). Some people, of course, refrain from hiring lawyers for noneconomic reasons. *See, e.g.,* Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1266–68 (2016).

[20] LEGAL SERV. CORP., *supra* note 11, at 9 (explaining that LSC-funded organizations do not have the resources necessary to meet individuals' demand for services and, as a result, one in two otherwise-eligible Americans who actually seek help are turned away).

Legal services are so expensive, in part, because a person who has a problem and wants help for that problem must get that help from a fully licensed lawyer. And *that* is because, except in discrete areas which we will detail below, unauthorized practice of law (UPL) rules restrict anyone who is not a lawyer from providing legal assistance. These laws tend to be both vague and capacious.[21] For instance, the Mississippi Supreme Court has explained that "any exercise of intelligent choice in advising another of his legal rights and duties brings the activity within the practice of the legal profession."[22] Or, in Arizona, legal assistance is defined as any "act[], whether performed in court or in the law office, which lawyers customarily have carried on from day to day."[23] Under these definitions, even if a person wants help doing something simple—filling out a court form, for example—that help must come from a full JD. A nonlawyer who lends a hand is subject to criminal prosecution.[24]

These UPL laws extend not just horizontally but also vertically, meaning that they apply, not just to "regular" nonlawyers, but also to others, including courthouse staff and technology providers. So, these laws not only restrict a person's ability to seek assistance from a neighbor, friend, social worker, or community center; they also restrict courthouse clerks' ability to supply advice or answer litigants'

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[21] As Justice Douglas lamented as far back as 1967: "The line that marks the area into which the layman may not step except at his peril is not clear." Hackin v. Arizona, 389 U.S. 143, 150 (1967) (Douglas, J., dissenting). More recently, Justice Gorsuch observed that "the definitions states have adopted, usually at the behest of local bar associations, are often breathtakingly broad and opaque." Neil M. Gorsuch, *Access to Affordable Justice*, 100 JUDICATURE 46, 48 (2016). For further discussion, see Bruce A. Green, *Should State Trial Courts Become Laboratories of UPL Reform?*, 92 FORDHAM L. REV. 1285, 1289 (2024); Lauren Sudeall, *The Overreach of Limits on "Legal Advice,"* 131 YALE L.J.F. 637 (2022).

[22] Darby v. Mississippi State Board of Bar Admissions, 185 So. 2d 684, 687 (Miss. 1966).

[23] State Bar of Ariz. v. Arizona Land Title & Tr. Co., 366 P.2d 1, 9 (Ariz. 1961).

[24] *See, e.g.,* N.Y. JUDICIARY LAW §§ 485, 486 (establishing that certain UPL violations are misdemeanors, while others are felonies); *see also* Drew A. Swank, *Non-Attorney Social Security Disability Representatives and the Unauthorized Practice of Law*, 36 S. ILL. U. L.J. 223, 227 (2012) (cataloging additional penalties).

questions, and they simultaneously stunt the invention and development of litigant-facing technology.[25]

This impoverished ecosystem contrasts sharply with the medical field.[26] There, patients can choose between a range of providers, including MDs *or* optometrists, podiatrists, registered nurses, nurse practitioners, physician's assistants, chiropractors, physical therapists, and midwives. Each of these providers is trained; each is licensed; and each is authorized to deliver medical services within the bounds of his or her licensure.[27] Some of these practitioners (e.g., registered nurses) need to be supervised by physicians.[28] Others don't. In the majority of states, for example, nurse practitioners have full practice authority, meaning that they can diagnose patients, order and interpret diagnostic tests, and initiate and manage treatments—no supervision necessary.[29] In law, by contrast, the closest analog is the paralegal, but paralegals

[25] For how UPL laws impede the development of litigant-facing technology, see Engstrom & Engstrom, *supra* note 8, at 163. For how UPL laws restrict the provision of legal advice by courthouse personnel, see David Freeman Engstrom & Nora Freeman Engstrom, *Courthouse UPL* (forthcoming 2026).

[26] As Gillian Hadfield has observed: "[I]f medical care were regulated in the manner of legal services, it would be illegal for anyone other than a licensed physician to delivery any form of medical care, from drawing a blood sample to performing neurosurgery." Hadfield, *supra* note 19, at 1276.

[27] *See* Bruce A. Green, *Why State Courts Should Authorize Nonlawyers to Practice Law*, 91 FORDHAM L. REV. 1249, 1265–72 (2023); Philip G. Peters, Jr., *Lessons from Medicine's Experiment with Nurse Practitioners and Physician Assistants*, *in* LAWYER'S MONOPOLY: ACCESS TO JUSTICE AND THE FUTURE OF LEGAL SERVICES (David Freeman Engstrom & Nora Freeman Engstrom eds., forthcoming 2025).

[28] *See*, *e.g.*, REV. CODE OF WASH. § 18.79.260(b) ("A registered nurse may, at or under the general direction of a licensed physician . . . administer medications, treatments, tests, and inoculations . . . whether or not a degree of independent judgment and skill is required.").

[29] *See* Engstrom & Stone, *supra* note 18, at 129 n.12. Importantly, "[t]here exists significant evidence that, even when 'unsupervised,' nurse practitioners furnish high-quality care—and, in some instances, the quality of care they provide actually eclipses that furnished by primary-care physicians." *Id.*

need to be directly supervised by an attorney,[30] and, even when supervised, are restricted in what they can do or say.[31]

Now suddenly, however, this impoverished landscape is in flux. In recent years, state regulators—seeking to "level the playing field for those who have no access to justice"—have started to relax UPL laws to welcome qualified nonlawyers into the fold.[32] That, of course, is what the Texas Working Group was proposing, and, in advocating this reform, that Working Group was not alone. Over the past five years, nearly a dozen states, from all corners of the country and from both sides of the political divide, have taken steps to expand the purview of who can deliver certain legal services,[33] while, in additional states and the District of Columbia, change appears to be in the offing.[34] Thus,

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[30] *See* MODEL RULES OF PRO. CONDUCT r. 5.3; Douglas R. Richmond, *Watching over, Watching Out: Lawyers' Responsibilities for Nonlawyer Assistants*, 61 U. KAN. L. REV. 441, 447 (2012).

[31] According to the New York City Bar Association: "Paralegals are not allowed to handle any tasks that require the exercise of professional legal judgment. Therefore, paralegals are only authorized to perform ministerial tasks." Comm. on Pro. Resp., *Prohibitions on Nonlawyer Practice: An Overview and Preliminary Assessment*, 50 REC. ASS'N B. CITY N.Y. 190, 197 (1995).

[32] Hon. Deno G. Himonas & Tyler J. Hubbard, *Democratizing the Rule of Law*, 16 STAN. J. CIV. RTS. & CIV. LIBERTIES 261, 263 (2020). In addition to UPL reform, states have also considered—or are actively considering—a relaxation of Rule 5.4 in order to permit lawyers to practice through corporate entities and obtain outside investment. *See* DAVID FREEMAN ENGSTROM ET AL., LEGAL INNOVATION AFTER REFORM: FIVE YEARS OF DATA ON REGULATORY CHANGE 12-15 (2025) (exploring reforms undertaken in Arizona and Utah).

[33] Arizona, Colorado, Minnesota, New Hampshire, Oregon, Utah, and Washington now allow licensed nonlawyers to provide legal services in at least certain case types (for example, family, housing, etc.). Alaska, Arizona, Delaware, Hawaii, Minnesota, South Carolina, Utah, and Washington have community justice worker (CJW) programs focused on meeting limited legal needs of low-income individuals. DEBORAH L. RHODE CTR. ON THE LEGAL PRO., RETHINKING REGULATION OF LEGAL SERVICES: AUTHORIZING COMMUNITY JUSTICE WORKERS 2–5 (2024); ENGSTROM ET AL., *supra* note 32, at 9–12. For further discussion, see *infra* Part I.B.2.

[34] For instance, in California, a coalition of organizations has developed a proposal for CJWs to work within state legal aid organizations. LEGAL AID ASS'N OF CAL. ET AL., INCREASING ACCESS TO JUSTICE THROUGH COMMUNITY JUSTICE WORKERS: A PROPOSAL FOR CALIFORNIA (2024). In Georgia, a committee convened by the state supreme court recently issued a report calling for "a phased pilot program that would permit non-attorneys to perform certain limited legal tasks in specific types of cases." GEORGIA REPORT, *supra* note 9, at 6. In Washington, D.C., a Task Force has unanimously recommended a CJW

it is fair to say that the legal profession is on the cusp of the greatest change its seen in roughly a century.

Predictably, however, not everyone applauds these developments. Just as in Texas, critics insist that the relaxation of UPL rules will unleash all manner of trouble. The rules' relaxation, critics warn, will create a "two-tiered market for legal services" whereby only the monied will be able to retain lawyers, while others will be condemned to a vastly inferior alternative.[35] Critics doubt that *any* matter is simple enough to be entrusted to "untrained individuals."[36] And critics fret that, without robust UPL protection, "vulnerable" consumers will inevitably fall prey to "unqualified and unscrupulous"[37] "opportunists" who will "swarm" into the marketplace "with little regard for the ultimate harm they may inflict upon an unsuspecting public."[38]

These punches are landing, and, as in Texas, some moves to relax UPL laws are sputtering, as policymakers worry that the expansion of

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program to serve legal aid organizations' low-income clients. D.C. TASK FORCE REPORT, *supra* note 8. The Conference of Chief Justices/Conference of State Court Administrators and the American Bar Association House of Delegates released resolutions encouraging states to support and study justice worker programs. CONF. OF C.J. & CONF. OF STATE CT. ADMIN'RS, RESOLUTION 1-2025 IN SUPPORT OF EXPLORING ACCESS TO JUSTICE THROUGH AUTHORIZED JUSTICE PRACTITIONER PROGRAMS (July 30, 2025); A.B.A. HOUSE OF DELEGATES, RESOLUTION 605 (2025).

[35] Lisa H. Nicholson, *Access to Justice Requires Access to Attorneys: Restrictions on the Practice of Law Serve a Societal Purpose*, 82 FORDHAM L. REV. 2761, 2771 (2014); *see also* Danny Abir, *Ulterior Motive Behind Push for New Legal Service Models?*, DAILY J., Oct. 22, 2021.

[36] Danny Abir, *Nonlawyers Practicing Law*, ADVOCATE, Nov. 2023, at 2. *See also* James Podgers, *Legal Profession Faces Rising Tide of Non-lawyer Practice*, 30 ARIZ. ATT'Y 24, 27 (Mar. 1994) (quoting California state bar president P. Terry Anderlini: "People don't show up with a nice, simple legal problem in a small neat box. They usually show up with a legal problem with one or two cans tied on its tail").

[37] Reply Brief for Appellant at 28, Upsolve, Inc. v. James, No. 22-1345 (2d Cir. Feb. 8, 2023).

[38] Francis A. Brown, *The Unauthorized Practice of Law*, 14 ME. L. REV. 47, 51 (1962). Some critics also worry that nonlawyer providers will not be subject to ethics rules, apparently unaware that a state could subject licensed nonlawyers to existing ethics rules or adapt various provisions to ensure adequate oversight.

nonlawyers' activities will backfire and imperil the public, just as critics predict.[39]

This all means that a debate is now raging about whether to relax the rules governing the provision of legal services, and, in this debate, the question of whether nonlawyers can offer high-quality help looms large. UPL laws exist, it is said, to protect consumers from "unqualified and incompetent practitioners."[40] These laws rest on the premise that "only attorneys possess the education, training, experience, accountability and professional discipline necessary to provide effective legal services."[41] If, however, nonlawyers are *not* necessarily "unqualified and incompetent"—if nonlawyers *can* "provide effective legal services"—the justification for UPL laws, in their absolute form, fades.

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[39] Most recently, bold efforts to relax UPL laws in California and Florida fizzled. For California, see Mary Catherine Tiernan, Comment, *All That Is Golden Does Not Glitter: A Proposed Pilot Program for Increasing Access to Justice in California in the Face of Legislative Resistance*, 50 W. ST. L. REV. 89, 99–103 (2023). For Florida, see Letter from Michael G. Tanner, President, Fla. Bar to Charles T. Canady, Chief Justice, Sup. Ct. of Fla., at 10 (Dec. 29, 2021) [hereinafter Tanner Letter]. Likewise, in 2021, the Illinois Supreme Court put a reform on the back burner, in the face of lawyer resistance. *CBA/CBF Task Force on the Sustainable Practice of Law & Innovation*, CHI. BAR FOUND., https://chicagobarfoundation.org/advocacy/cba-cbf-task-force-on-the-sustainable-practice-of-law-innovation/; Letter from Dennis J. Orsey, President, Ill. State Bar Ass'n, to E. Lynn Grayson & Hon. Mary Anne Mason, Co-Chairs, CBA/CBF Task Force on the Sustainable Prac. of L. & Innovation (Aug. 20, 2020).

[40] Model Code of Prof'l Responsibility EC 3-1 (1980) (declaring that "[t]he prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence"); Matthew Longobardi, *Unauthorized Practice of Law and Meaningful Access to the Courts: Is Law Too Important to Be Left to Lawyers?*, 35 CARDOZO L. REV. 2043, 2048–49 (2014) ("Several different rationales have been put forward in defense of UPL rules, but the main justification is that UPL prohibitions protect consumers from unqualified and incompetent practitioners."); Donald T. Weckstein, *Limitations on the Right to Counsel: The Unauthorized Practice of Law*, 1978 UTAH L. REV. 649, 650 (1978) ("The most frequently stated purpose of prohibiting non-lawyers from practicing law is to protect the public from incompetent and unethical performance"); *see also infra* notes 47–49 (compiling additional justifications).

[41] Mike France, *Bar Chiefs Protect the Guild*, NAT'L L.J., Aug. 7, 1995, at A27, A28 (quoting letter from Thomas Curtin, President of the New Jersey Bar Association).

This Article seeks to adjudicate this consequential debate. To do so, we compile and analyze the best evidence available on nonlawyer providers—amassing, by far, the most such evidence ever assembled. Ultimately, after sifting through dozens of studies and thousands of pages of records and testimony, we conclude that specially trained nonlawyers can, indeed, supply competent legal assistance across many domains.

The remainder of this Article unfolds in three Parts. Part I offers historical context. We detail the organized bar's Depression-era campaign to create a lawyer monopoly, detail the scattered UPL carve-outs that have long existed, and then inventory the new nonlawyer programs sweeping across the states.

Part II catalogs nearly a century of research that assesses the work of nonlawyer providers. Spanning different areas of law, in different types of tribunals, using different metrics, and deploying different methodologies, this research shows that knowledgeable and specially trained nonlawyers can provide effective legal services. Indeed, in some instances, the services nonlawyers supply surpass the services provided by full JDs.

Part III then pivots to offer five lessons from the above analysis, at varying levels of abstraction. First and most obviously: We show that the existing empirical evidence runs counter to the notion that "only attorneys possess the education, training, experience, accountability and professional discipline necessary to provide effective legal services."[42] A lawyer monopoly on legal services is simply not necessary to serve the public interest.

Second, we draw on the assembled evidence to offer specific take-aways for those who are actually *creating* licensed paraprofessional programs and trying to define practice areas, prerequisites, and regulatory requirements that will govern these individuals' entry.

Third, and abstracting out, we argue that, although trained nonlawyers stack up quite well, when pitted against their JD-toting counterparts, that head-to-head matchup gets it wrong—and actually gets it wrong in at least two respects. Most obviously, given the stark statistics

[42] *Id*.

above, the choice is not lawyer v. nonlawyer.[43] The *real choice*, for millions of Americans, is having the help of a nonlawyer versus going it alone, and there is not a shred of evidence that a person is better off proceeding pro se, as opposed to proceeding with the help of a trained, specialized professional.[44]

Meanwhile, the current debate about lawyers v. nonlawyers is also misdirected, as it has also become myopically quality-centric. Here we mean: Even *if* lawyers *were* superior to nonlawyers along the quality dimension—even if, with the help of a lawyer, as opposed to a trained nonlawyer, one were more likely to prevail or walk away with a sense of satisfaction and accomplishment—that would not tell us whether UPL laws ought to exist in their current form. Generally, when comparing goods and services, one does not look exclusively at "quality," and certainly in the regulation of various goods and services, regulators do not outlaw the purchase of anything but the AAA option. Not all cars must be Cadillacs. Not all watches must be Rolexes. Not all medical consults must be with America's Top Docs. Rational consumers, instead, compare (and are permitted to compare) the quality of a purchase alongside a range of other attributes, including availability, convenience, comfort, and cost. It is bizarre to suggest

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[43] *See* CIVIL LANDSCAPE REPORT, *supra* note 8, at 31 (reporting that, in roughly 75% of civil cases, at least one side is self-represented).

[44] *See infra* note 284 (compiling evidence). Some challenge this idea, insisting that individuals represented by nonlawyers get the worst of both worlds, as they aren't given quality representation and they are simultaneously deprived of the courtesies judges extend to self-represented litigants. We are not convinced. This argument relies on two shaky predicates. It assumes (1) that nonlawyers provide shoddy representation (and our findings rebut that idea), and (2) that judges are solicitous of self-represented litigants (and many judges aren't). Indeed, a growing body of research suggests that judges tend to view pro se litigants with suspicion. *E.g.*, Kathryn M. Kroeper et al., *Underestimating the Unrepresented: Cognitive Biases Disadvantaged Pro Se Litigants in Family Law Cases*, 26 PSYCH., PUB. POL'Y & L. 198, 209 (2020) (finding, in the context of a divorce case, that judges and attorney-mediators "devalue the case merit of pro se parties"); Victor D. Quintanilla et al., *The Signaling Effect of* Pro Se *Status*, 42 LAW & SOC. INQUIRY 1091, 1116 (2017) (finding in the federal civil rights context, that "law-trained individuals steeply discounted the value of the unrepresented litigant's claim at virtually every dispute stage" so that pro se litigants "obtained smaller settlement awards and diminished material outcomes"); *accord* Adam Liptak, *An Exit Interview With a Judicial Firebrand*, N.Y. TIMES, Sept. 11, 2017, at A18 (quoting Judge Richard Posner as stating that "most judges regard these people [self-represented litigants] as kind of trash not worth the time of a federal judge").

that, in this realm and this realm only, quality ought to matter, to the exclusion of all other variables.[45]

Fourth, we move beyond the evidence to an argument about how evidence ought to be deployed in the regulation of legal services. In particular: Who bears the burden of proving what works? Should the burden of proof always and inevitably be on those who support reform? Or, should the burden sometimes fall on those who want to maintain the lawyer-created monopoly?[46]

Last but not least, we end with a plea regarding evidence—and the need for it. UPL restrictions, its champions and critics agree, rest on "one basic . . . premise."[47] That premise is that "the public is best served when only [lawyers] properly trained in law and licensed by the state are permitted to provide legal services."[48] Those who defend the lawyer monopoly are so confident in this premise that they declare it to be "irrefutable."[49] But the premise, in fact, is *testable*.[50] Evaluating the premise by rigorously analyzing the best evidence currently available, we find that nonlawyers, like lawyers, can supply—and are currently supplying—high-quality services across a range of areas and situations. It is time, then, as a profession, to move beyond old hunches, impulses, and shibboleths, toward empirically informed decision-making.[51]

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[45] The notion is doubly bizarre given the slipperiness of "quality" when it comes to legal services. For discussion, see *infra* notes 142–144 and accompanying text.

[46] *Accord* Bruce A. Green, *Disciplinary Restrictions on Multidisciplinary Practice: Their Derivation, Their Development, and Some Implications for the Core Values Debate*, 84 MINN. L. REV. 1115, 1117–18 (2000) (questioning why reformers bear the 'burden of proof').

[47] Michael L. Rigsby, *Virginia: The Unauthorized Practice of Law Experience*, 19 U. RICH. L. REV. 499, 512 (1985).

[48] *Id*.

[49] *Id*. The word "irrefutable" is the word that we omit from the prior above-the-line sentence and replace with ellipses.

[50] We, of course, are not the first to evaluate the premise. This piece is based on and draws from the hard and time-consuming work of dozens of empirically minded scholars who have come before. We do, however, assemble much *more* evidence than has ever been assembled.

[51] *See generally* Elizabeth Chambliss, *Evidence-Based Lawyer Regulation*, 97 WASH. U. L. REV. 297 (2019); *see also* Leslie C. Levin, *The Monopoly Myth and Other Tales About the Superiority of Lawyers*, 82 FORDHAM L. REV. 2611, 2629

I. THE RISE AND FALL (AND RISE) OF NONLAWYER PROVIDERS

This Part explores the historical context in which the lawyer's monopoly on legal services emerged. It first details the organized bar's concerted campaign to narrow who could practice law. It then describes inroads into the resulting monopoly.

A. Early Efforts to Establish a Lawyer Monopoly on Legal Services

In the early years of the Republic, lawyers were more the exception than the rule.[52] According to one commentator, from the early nineteenth century until after the Civil War, "little effort was made … either by the bar or by the courts, to prevent nonlawyers from practicing law."[53] Some state high courts had no occasion to weigh in on UPL—at all—until the 1930s.[54] Likewise, although the American Bar Association (ABA) was founded in 1878, it did not establish its Unauthorized Practice Committee until 1932.[55] Perhaps, as a consequence, through the early years of the last century, nonlawyers performed a wide range of services. They represented clients before a

(2014) ("The legal profession's claims about lawyers' superiority rest largely on rhetoric rather than on empirical evidence.").

[52] It was largely an "informal bar" of untrained practitioners. Barlow F. Christensen, *The Unauthorized Practice of Law: Do Good Fences Really Make Good Neighbors—or Even Good Sense?*, 1980 AM. B. FOUND. RES. J. 159, 162 (1980).

[53] *Id*. at 174. For a discussion of states' piecemeal efforts to restrict UPL prior to 1930, see Laurel A. Rigertas, *The Birth of the Movement to Prohibit the Unauthorized Practice of Law*, 37 QUINNIPIAC L. REV. 97, 105–155 (2018). Even lawyers were lightly regulated; as of 1891, only a minority of states required lawyers to possess any formal legal training, while none imposed a law school graduation requirement. Hadfield, *supra* note 19, at 1277.

[54] *See, e.g.,* Rigsby, *supra* note 47, at 500 (reporting that the Virginia Supreme Court "first addressed the issue" in 1933).

[55] Davis Grant, *The Fight against Unauthorized Practice in Texas*, 6 S. TEX. L.J. 163, 164 (1962) ("Strange as it may seem, the organized bar in America did not seriously concern itself with the problem of unauthorized practice until the 1930's . . . .").

number of state and federal administrative agencies,[56] offered legal advice, provided transactional services,[57] settled clients' injury claims,[58] and drafted wills,[59] deeds, mortgages, and bills of sale.[60]

But then, under the shadow of the Great Depression, the organized bar undertook a coordinated and explicitly protectionist campaign against unlicensed individuals, as well as corporate entities providing legal services, and, through a series of actions, brought most of the above efforts to a halt.[61]

Now, the historical record is clear that the bar's crackdown on lay representation was tinged by more than a little self-interest.[62] Indeed, the UPL campaign was waged, one bar leader put it, for the "benefit" of new lawyers coming into the profession who needed work, as well as for "the thousands of men and women who will come into the profession in the future."[63] It was fueled, said another, by a resolve

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[56] F. Trowbridge vom Baur, *Administrative Agencies and Unauthorized Practice of Law*, 48 A.B.A. J. 715, 717 (1962).

[57] Rigertas, *supra* note 53, at 142.

[58] Nora Freeman Engstrom, *Sunlight and Settlement Mills*, 86 N.Y.U. L. REV. 805, 843 (2011).

[59] Frederick C. Hicks, *Practice of Law by Laymen and Lay Agencies*, 6 CONN. B.J. 31, 34 (Jan. 1932).

[60] *See* Christensen, *supra* note 52, at 183–84.

[61] *See* AM. BAR ASS'N COMM'N ON NONLAWYER PRACTICE, NONLAWYER ACTIVITY IN LAW-RELATED SITUATIONS: A REPORT WITH RECOMMENDATIONS 17 (1995) [hereinafter ABA NONLAWYER REPORT] ("The Great Depression was a catalyst for increased enforcement of unauthorized practice of law prohibitions."); JAMES WILLARD HURST, THE GROWTH OF AMERICAN LAW: THE LAW MAKERS 328 (1950) ("The bar became concerned with lay competition, largely under the spur of lawyers' economic distress; it then busied itself with attempts to suppress its lay competitors . . . ."); Paul H. Sanders, *Procedures for the Punishment or Suppression of Unauthorized Practice of Law*, 5 LAW & CONTEMP. PROBS. 135, 135 (1938) (stating in 1938: "The development of effective legal remedies for use against the unauthorized practitioner, and their adoption on a widespread scale, are, in the main, events of the present decade."); *see also* Engstrom & Stone, *supra* note 18, at 191–98 (tracing these activities). Another consequence of the bar's Depression-era UPL campaign was to enshrine the inherent powers doctrine, which cemented courts (not politically accountable legislatures) as the exclusive source of regulation of the legal services industry. *See id*. at 170-82; Rigertas, *supra* note 53, at 163–64.

[62] *See* Engstrom & Stone, *supra* note 18, at 191–98.

[63] Jack B. Dworken, *An Open Letter,* 35 OHIO L. REP. 2, 4 (1931).

that the bar *needed* to act, lest the lawyer be driven "from the banquet table at which for centuries he has held a distinguished place."[64] It wasn't right, said a third, that "the average lawyer in New York City" was consigned to "net[] less than $3,000 a year," while "every year laymen are taking millions of dollars from the lawyers."[65]

Alas: Although the bar's motivations were questionable, the campaign's success was undeniable. Within a decade, in most areas, nonlawyer legal practice was obliterated.

Yet, in a few places, as we explain below, nonlawyers toiled on.

B. UPL Carve-outs and Contemporary Expansions

1. *Longstanding Exceptions*

The most prominent area of lay practice is, and has long been, before federal administrative agencies. Some agencies have *always* permitted nonlawyer practice. The U.S. Patent Office, for instance, has authorized nonlawyer representation since its inception.[66] The lay representation of veterans dates back to at least 1862,[67] and nonlawyers' (primarily accountants') representation of taxpayers has a similar historical pedigree.[68]

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[64] Sol Weiss, *Legal Entrenchments and Lay Encroachments*, 37 COMM. L.J. 19, 19 (1932).

[65] Joseph D. Stecher, *Unauthorized Practice and the Public Relations of the Bar*, 23 A.B.A. J. 606, 608 (1937).

[66] *See* Sperry v. State of Fla. ex rel. Fla. Bar, 373 U.S. 379, 388 (1963) (noting that "nonlawyers have practiced before the [U.S. Patent] Office from its inception" and that this authority was formalized in 1869).

[67] ABA NONLAWYER REPORT, *supra* note 61, at 25.

[68] William H. Sager & Leslie S. Shapiro, *Administrative Practice Before Federal Agencies*, 4 U. RICH. L. REV. 76, 77 (1969); C. John Muller IV, *Circular 230: New Rules Governing Practice Before the IRS*, 1 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 284, 292–94 (2011) (describing the history of Circular 230 which governs practice before the Treasury Department); *Practice Before Government Agencies: Hearings Before Subcomm. No. 2 of the H. Comm. on the Judiciary*, 80th Cong. 85 (1948) [hereinafter 1948 Hearing] (statement of Spencer Gordon, Counsel, American Institute of Accountants) ("[A]ccountants from earliest times have been admitted to practice before the Treasury Department, and they practice there now."); F. TROWBRIDGE VOM BAUR, STANDARDS OF ADMISSION FOR PRACTICE BEFORE FEDERAL ADMINISTRATIVE

This nonlawyer representation has long infuriated the organized bar. Throughout the middle years of the last century, the ABA repeatedly tried to get Congress to enact some version of its "Administrative Practitioners' Act" to "eliminate the present evils" that inevitably arose when "so called-practitioners" attempted to represent clients before various administrative agencies.[69] So dogged were the ABA's efforts that, as of 1948, "twenty-two bills prohibiting lay practice" in federal administrative agencies had been introduced.[70]

Yet, these efforts went nowhere. When enacting the Administrative Procedures Act (APA) in 1946, Congress declined to impose minimum representation requirements, instead leaving the matter to agency discretion.[71] And, in the ensuing years, even in the face of the ABA's insistent demands that a ban on lay administrative practice was "necessary in the public interest,"[72] Congress steadfastly refused to revisit that determination.[73]

Undaunted, in the 1960s, state bar associations tried to make an end-run around Congress and the APA by targeting individuals licensed to practice in federal administrative agencies, charging them with state-level UPL violations. In one famous case, for instance, the Florida Bar "went after" nonlawyer Alexander Sperry, a recent Florida transplant, who, for four decades, had been successfully practicing before the U.S.

AGENCIES 9 1953) ("Practice by laymen in a representative capacity before Government agencies, prosecuting claims and in contested litigation, appears to be a development which, on any noteworthy scale, originated principally with the aftermath of the Civil War.").

[69] *Report of the Standing Committee on Unauthorized Practice of the Law*, 74 ANNU. REP. A.B.A. 249, 249 (1949) [hereinafter 1949 Report]; *see also* George B. Shepherd, *Fierce Compromise: The Administrative Procedure Act Emerges from New Deal Politics*, 90 NW. U. L. REV. 1557 (1996).

[70] *Proposed Restriction of Lay Practice before Federal Administrative Agencies,* Note, 48 COLUM. L. REV. 120, 124 (1948).

[71] ABA NONLAWYER REPORT, *supra* note 61, at 42.

[72] 1949 Report, *supra* note 69, at 249.

[73] *Attorney Versus Accountant: A Professional Jurisdictional Dispute in the Field of Income Tax Practice,* 56 YALE L.J. 1438, 1446 n.29 (1947) (chronicling the ABA's numerous unsuccessful legislative efforts to fence lay representatives off from administrative practice).

Patent Office.[74] The Bar's theory: Although Sperry could practice before the U.S. Patent Office, he couldn't do so from an office in Florida (or, presumably, in any state).[75]

The Florida Supreme Court agreed and enjoined Sperry's activities.[76] But the U.S. Supreme Court saw it differently. Citing the Supremacy Clause, the Court put the brakes on this branch of the Bar's UPL campaign, ruling that state UPL law, when up against "incompatible" federal legislation, had to "yield."[77]

The upshot: Although as early as 1940, the ABA proclaimed that "the time has come in America when practice before federal administrative agencies in legal matters should be limited to lawyers"—that idea has never gained traction.[78] As a consequence, numerous federal agencies authorize—and have long authorized—nonlawyer practice. These include, in addition to the U.S. Patent Office and Treasury Department,[79] the Social Security Administration (SSA),[80] the National Labor Relations Board,[81] the Department of Justice (which

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[74] Trowbridge vom Baur, Sperry *Revisited—Unauthorized Practice and the Modern Patent Attorney*, 30 UNAUTHORIZED PRAC. NEWS 305, 310 (Winter 1965) ("[T]he Florida Bar went after him."). Sperry was first admitted to appear before the U.S. Patent Office in 1928. State ex rel. Fla. Bar v. Sperry, 140 So. 2d 587, 588 (Fla. 1962).

[75] vom Baur, *supra* note 74, at 310.

[76] *Sperry*, 140 So. 2d at 591.

[77] *See* Sperry v. Florida, 373 U.S. 379, 384 (1963); *see also* Keller v. Wisconsin Ex Rel. State Bar of Wisconsin, 374 U.S. 102 (1963) (involving an individual permitted to practice before the Interstate Commerce Commission, targeted by the state bar of Wisconsin).

[78] *Report of the Special Committee on Administrative Law*, 65 ANNU. REP. A.B.A. 215, 220 (1940).

[79] 1948 Hearing, *supra* note 68, at 85 (statement of Spencer Gordon, Counsel, American Institute of Accountants).

[80] *See* 42 U.S.C. § 406(e)(2); 20 C.F.R. § 404.1705(b); Swank, *supra* note 24, at 234–35 (estimating that nonlawyers represent individuals in "77,000 to 98,000 cases per year").

[81] *See* John C. Gall, *Practice by Non-Lawyers Before the National Labor Relations Board*, 15 FED. B.J. 222 (1955); Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 85, 124 (1988).

houses, among other things, the Board of Immigration Appeals),[82] the Department of Homeland Security (which includes U.S. Citizen and Immigration Services),[83] the Department of Veterans Affairs,[84] the U.S. Department of Labor,[85] and the Department of Agriculture (USAID).[86] Of these, some impose special certification, education, training, or insurance requirements; others have more of an open-door policy.[87]

States, too, sport and have long sported a hodgepodge of carve-outs and exceptions.[88] Some states, for example, allow nonlawyer tax professionals to provide legal advice.[89] Others let nonlawyers prepare certain bankruptcy filings.[90] The majority of states let licensed "public adjusters" represent clients in property damage negotiations with their

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[82] AMY WIDMAN, NONLAWYER ASSISTANCE AND REPRESENTATION, REPORT TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES 18 (2024) (discussing nonlawyer practice before the Board of Immigration Appeals).

[83] Careen Shannon, Note, *To License or Not to License? A Look at Differing Approaches to Policing the Activities of Nonlawyer Immigration Service Providers*, 33 CARDOZO L. REV. 437, 447 (2011) (detailing the various levels of accreditation and nonlawyer practice before the Department of Justice versus the Department of Homeland Security).

[84] ADMINISTRATIVE PROCEDURE IN GOVERNMENT AGENCIES, MONOGRAPH OF THE ATTORNEY GENERAL'S COMMITTEE ON ADMINISTRATIVE PROCEDURE, IN 13 PARTS, PART 2: VETERANS' ADMINISTRATION 38 (1940) (explaining that the bulk "of the actual representation of claimants before the various Administration boards . . . is performed by nonlawyers") [hereinafter VA MONOGRAPH].

[85] WIDMAN, *supra* note 82, at 20 ("The VA authorizes and encourages nonlawyers to assist veterans. At the initial claims level, the vast majority of claimants are represented by nonlawyer representatives.").

[86] Bruce A. Green & M. Ellen Murphy, *Replacing This Old House: Certifying and Regulating New Legal Services Providers*, 76 WASH U. J.L. & POL'Y 45, 72 (2025).

[87] *See* WIDMAN, *supra* note 82, 40 ("Agencies vary immensely in the specific and depth of the qualifications necessary to represent someone before them."); Green & Murphy, *supra* note 86, at 73–74 (providing examples).

[88] *See* Green, *supra* note 27, at 1269 ("[T]he courts' authorization of nonlawyer professionals has been piecemeal, highly selected, haphazard and, in some places unofficial."). For additional examples, see *id*. at 1291–92.

[89] *E.g.*, UTAH CODE OF JUD. ADMIN. r. 14-802(d)(12)(F).

[90] 11 U.S.C. § 110 (setting forth the standards for the "bankruptcy petition preparer").

own ("first-party") insurers.[91] More than a dozen states let nonlawyer advocates assist and advise survivors of domestic violence.[92] All states permit nonlawyer insurance adjusters to negotiate personal injury claims (even though, when a nonlawyer negotiates those very same claims on behalf of an injured individual, it's a crime).[93] A majority of states allow nonlawyers to handle real estate closings.[94] Still others permit nonlawyers to represent injured workers in workers' compensation claims.[95] And finally, some permit nonlawyers to negotiate union contracts.[96]

Some of these carve-outs are of relatively recent vintage. In 2003, for instance, Arizona gave the go-ahead to "legal document preparer[s]," permitted to "prepare or provide legal documents, without the

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[91] Engstrom, *supra* note 58, at 843.

[92] *Landscape Analysis: What Services Domestic Violence Organizations Currently Provide*, I4J, https://uplpolicytoolkit.org/?page_id=40 (last visited July 23, 2025) (explaining that sixteen states have UPL exceptions permitting DV advocates to offer some legal help); *cf.* Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315 (2021) (suggesting that, beyond the above, more states informally permit nonlawyer practice in this domain). *See also* GEORGIA REPORT, *supra* note 9, at 30–31 ("[F]or over 30 years, Georgia law has allowed certain non-attorneys who are designated by the court to assist victims of family violence with applying for domestic violence protective orders.").

[93] *See* Engstrom, *supra* note 58, 842 (discussing this double standard).

[94] Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 FORDHAM L. REV. 2581, 2590 (1999) (reporting that a majority of states allow real estate brokers to prepare or fill out documents for a real estate transaction where no charge for the service is made); Letter from Anne K. Bingaman, Assistant Att'y Gen., U.S. Dep't of Just. & William J. Baer, Dir., Fed. Trade Comm'n, to Hon. Thomas A. Edmonds, Exec. Dir., Va. Sate Bar (Sept. 20, 1996), at 3 [hereinafter Bingaman Letter].

[95] *E.g.*, WIS. SUP. CT. r. 23.02(2)(c) (excepting and excluding from the state's UPL statute persons "[a]ppearing in a representative capacity before an administrative tribunal or agency to the extent permitted by such tribunal or agency."). *See also* Deborah L. Rhode, *Policing the Professional Monopoly: A Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions*, 34 STAN. L. REV. 1, 103–04 (1981) (illustrating that, as of 1981, twenty out of fifty Workers' Compensation Boards permit lay representation).

[96] *E.g.*, *Unauthorized Practice Rules: Exclusions*, VA. STATE BAR, https://vsb.org/Site/01_About/RulesRegulations/Unauthorized-Practice-Rules.aspx (stating that nonlawyers may engage in, among other activities, "[p]articipating in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements") (last visited July 23, 2025).

supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter."[97] Meanwhile, in 1998, California gave the green light to "legal document assistants," who are permitted to prepare court documents (although not furnish legal advice).[98] Others of the above exceptions, such as the allowance for insurance adjusters, have existed for nearly a century.[99]

How did these statewide carve-outs come to be? Some are the result of political action. Arizona offers a case in point. In 1961, the Arizona Supreme Court interpreted the state's UPL laws to bar real estate agents from preparing purchasing agreements.[100] Real estate brokers—furious about this new restriction—responded by launching a successful ballot initiative to secure a state constitutional amendment to authorize their activities.[101] Indeed, so lopsided was the resulting popular vote that one commentator dubbed it "the most resounding debacle in the history of the organized bar's assault upon the 'unauthorized practice of law.'"[102]

Other carve-outs are the result of legislative activity. Virginia offers an exemplar. On October 17, 1996, the Virginia State Bar issued a proposed opinion, offering non-binding guidance to courts that only lawyers should be allowed to conduct real estate closings.[103] While court approval was pending, the Federal Trade Commission and the

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[97] ARIZ. CODE OF JUD. ADMIN. § 7-208(A).

[98] S.B. 1418, 1997-98 Leg., Reg. Sess. (Cal. 1998); CAL. BUS. & PROF. CODE § 6400(c)-(d). Green, *supra* note 27, at 1268; Levin, *supra* note 51, at 2615.

[99] *See* Nora Freeman Engstrom & James Stone, *Insurance Company Exceptionalism* (forthcoming 2026).

[100] State Bar v. Arizona Land Title & Trust Co., 90 Ariz. 76, 366 P.2d 1 (Ariz. 1961).

[101] Weckstein, *supra* note 40, at 649; M. Marks, *The Lawyers and the Realtors: Arizona's Experience*, 49 A.B.A. J. 139 (1963).

[102] Robert E. Riggs, *Unauthorized Practice and the Public Interest: Arizona's Recent Constitutional Amendment*, 37 S. CAL. L. REV. 1, 1 (1964); *see also* Marks, *supra* note 101, at 141 (reporting that the constitutional amendment "was passed by an overwhelming majority of the voters").

[103] *See* UPL Opinion 183, 47 VA. LAW. 40 (Nov. 1998); Joyce Palomar, *The War Between Attorneys and Lay Conveyancers-Empirical Evidence Says "Cease Fire!"*, 31 CONN. L. REV. 423, 434–36 (1999).

DOJ registered concern.[104] Then, the Virginia Legislature got involved and asked the bar to quantify the incidence of error in real estate closings conducted by lawyers and nonlawyers, respectively.[105] Apparently unsatisfied with the bar's response, in 1997, the legislature enacted the Consumer Real Estate Settlement Protection Act, establishing that real estate brokers and others can furnish residential real estate settlement services, no law license required.[106]

Other carve-outs are traceable to negotiation. Insurance companies, for instance, got an exemption for insurance adjusters by reaching an early détente with the organized bar.[107] Likewise, California's Legal Document Preparer Program was born of a "compromise between many segments of the bar that adamantly opposed any legislation legitimizing or recognizing nonlawyer practice and groups that advocated broad recognition of law workers other than lawyers."[108]

Some of the above carve-outs, meanwhile, came about because of state supreme court determinations.[109] In New Jersey, for instance, the state supreme court ruled in 1995 that nonlawyers could conduct closings, after finding that real estate closing fees were lower in southern New Jersey, where lay closings were commonplace, than in the northern

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[104] Bingaman Letter, *supra* note 94, at 3 (warning that the position would "deprive Virginia consumers of the choice to use a lay settlement service," which would, in turn, "likely increase the cost of real estate closings for consumers").

[105] Palomar, *supra* note 103, at 428 n.6, 431 n.14.

[106] *Id*. at 435; Rigertas, *supra* note 53, at 160–63; *see* VA. CODE ANN. § 55.1-1002. It appears that the bar was able to identify thirty-one examples of harm that lay settlement services had allegedly caused to consumers. This, the DOJ pointed out, represented "a miniscule fraction of the tens of thousands of lay settlements in Virginia during the past 15 years and suggests a safety record that other industries might envy." Bingaman Letter, *supra* note 87, at 4–5.

[107] *See* Engstrom & Stone, *supra* note 99. Helping to cement this agreement was a declaratory judgment action filed by six of the country's prominent insurers. *Liberty Mut., Inc. v. Jones*, 130 S.W.2d 945 (Mo. 1939).

[108] Herbert M. Kritzer, *The Future Role of "Law Workers": Rethinking the Forms of Legal Practice and the Scope of Legal Education*, 44 ARIZ. L. REV. 917, 927 (2002).

[109] *See, e.g.,* ARIZ. CODE OF JUD. ADMIN. § 7-208(C) (2003) (stating that, in creating the legal document preparer program, the Arizona Supreme Court intended to "[p]rotect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner").

part of the state, where lawyer representation was the norm.[110]

Finally, others are traceable to federal intervention,[111] reflect a consideration of the relative informality of the tribunal,[112] or were created in light of the simplicity of the work at hand.[113]

2. *The Modern Movement*

Now, we are in the midst of a new push to relax the lawyer's monopoly.[114] In recent years, nearly a dozen states have taken steps to expand access to an array of legal services.[115] Particularly relevant here: A number of states have authorized nonlawyers to deliver legal services, roughly akin to nurse practitioners in medicine.[116]

This modern effort dates back to 2015 when Washington launched its Limited License Legal Technicians (LLLTs) program. These LLLTs,

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[110] *In re* Opinion No. 26 of the Committee on the Unauthorized Practice of Law, 139 N.J. 323, 333–38 (1995).

[111] Bingaman Letter, *supra* note 94, at 1; United States v. Allen Cnty. Indiana Bar Ass'n, Civ. No. F-79-0042 (N.D. Ind. 1980) (involving the DOJ's successful action against the Allen County Bar for discouraging the use of title insurance companies).

[112] *See, e.g.,* Harkness v. Unemployment Comp. Bd. of Rev., 920 A.2d 162, 168 (Pa. 2007) (holding that "non-attorney employer representatives at unemployment compensation proceedings are not engaging in the practice of law" because, inter alia, unemployment compensation proceedings "are informal" and only "minimal amounts [are] at issue"); Gregory Zlotnick, *Inviting the People into People's Court: Embracing Non-Attorney Representation in Eviction Proceedings*, 25 MARQ. BENEFITS & SOC. WELFARE L. REV. 83 (2023) (discussing Texas's authorization of nonlawyer representation in eviction matters, where lay judges preside and evidentiary and procedural rules are relaxed).

[113] Numerous UPL carve-outs are justified by the availability and mandated use of state-sanctioned, lawyer-created preprinted forms. *See* William M. Dishman, Note, *Unauthorized Practice of Law by Realtors and Title Insurance Companies*, 49 KY. L. REV. 384 (1961).

[114] As Leslie Levin has aptly put it: "The U.S. legal profession's so-called monopoly on the practice of law is under siege." Levin, *supra* note 51, at 2611.

[115] *See supra* note 33.

[116] For a helpful catalog of existing programs, see GEORGIA REPORT, *supra* note 9, at 116–35. For the nurse practitioner analogy, see e.g., Press Release, Ariz. Sup. Ct., Arizona Supreme Court Makes Generational Advance in Access to Justice 1–2 (Aug. 27, 2020) [hereinafter AZ August 2020 Press Release].

who became licensed after earning (at least) an associate-level degree, logging 1,500 hours of work experience, and passing a bar exam-like test, were permitted to assist clients out of court in certain family law matters (but not beyond that).[117]

In the ensuing years, several other states followed, and some of these expanded on the LLLT model. Fueled by a desire to create "a market based solution for the unmet needs of litigants," the Utah Supreme Court authorized a paraprofessional program in 2018.[118] These paraprofessionals, who have to hold a college degree, log 1,500 hours of experience, and pass an exam, are permitted to advise clients on a range of matters (not just family law) and accompany clients into court (but not supply active representation).[119] Two years later, Arizona and Minnesota followed suit; in these states, building on the Utah model, nonlawyers can even represent clients in court.[120] In 2022, the Oregon

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[117] WASH. ADMISSION & PRAC. R. 28 (2013). For more on Washington's LLLT program, see generally JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM (2021); Benjamin H. Barton, *The LLLT Conundrum*, 76 WASH. U. J.L. & POL'Y 5 (2025). The Washington Supreme Court decided to sunset the LLLT program in 2020, citing the overall costs of sustaining the program and the small number of interested individuals. The then-licensed LLLTs were authorized to continue providing services. Letter from Debra L. Stephens, C.J., Wash. Sup. Ct., to Stephen R. Crossland et al., Ltd. License Legal Tech. Bd. (June 5, 2020); Lyle Moran, *How the Washington Supreme Court's LLLT Program Met Its Demise*, ABA J. (July 9, 2020, 1:46 PM), https://www.abajournal.com/web/article/how-washingtons-limited-license-legal-technician-program-met-its-demise.

[118] *Licensed Paralegal Practitioners*, UTAH STATE CTS., https://www.utcourts.gov/en/about/miscellaneous/legal-community/lpp.html (last visited July 23, 2025). A Utah State Bar survey conducted at the time found that "people are often interested in self-representation with some support from a legal practitioner." *See*, *e.g.*, Catherine J. Dupont, *Licensed Paralegal Practitioners*, 31 UTAH BAR J. 16, 18 (2018).

[119] UTAH CODE OF JUD. ADMIN. r. 15-703(c)-(f) (2025). While in court, paraprofessionals can sit with clients and provide emotional support, take notes, and answer the client's factual questions. *Id*. at 14-802(c)(1)(L).

[120] AZ August 2020 Press Release, *supra* note 116; Order Implementing Legal Paraprofessional Pilot Project, ADM19-8002 (Minn. 2020). For in-court representation, Minnesota requires attorney supervision, but this does not necessarily mean that the attorney must accompany the paraprofessional. *Legal Paraprofessional Program—Frequently Asked Questions*, MINN. JUD. BRANCH, https://mncourts.gov/help-topics/Legal-Paraprofessional-Program/faq (last visited July 23, 2025).

Supreme Court approved the Licensed Paralegal program which launched in 2024.[121] Also in 2022, the New Hampshire legislature passed a paraprofessional pilot project, which moved into its second phase at the beginning of 2025.[122] And, Colorado's Licensed Legal Paraprofessionals program went live in 2024.[123]

Pioneered in Alaska, a related approach—the Community Justice Worker (CJW)—is also gaining momentum.[124] Compared to the above programs that license paraprofessionals, CJW programs have a lower barrier to entry. Whereas paraprofessionals, who can typically work without attorney supervision, have to satisfy onerous education, training, and examination requirements, CJWs, who are employed by and subject to the supervision of nonprofit community organizations or legal aid offices, merely receive training in very specific aspects of legal process (e.g., how to complete public benefits forms).[125] In this way, CJWs permit perennially overwhelmed legal aid organizations to

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[121] OR. STATE BAR, SUP. CT. OF THE STATE OF OR. RULES FOR LICENSING PARALEGALS (2025).

[122] H.B. 1343, 2022 Leg., Reg. Sess. (N.H. 2022) (enacted); Tom Jarvis, *Newly Enacted Paraprofessional Pilot Program Helps Promote Access to Justice*, N.H. BAR ASS'N, https://www.nhbar.org/newly-enacted-paraprofessional-pilot-program-helps-promote-access-to-justice/ (last visited July 23, 2025).

[123] *Licensed Legal Paraprofessionals – Background*, OFF. OF ATT'Y REGUL. COUNS., https://www.coloradolegalregulation.com/future-lawyers/llpgeneraloverview/ (last visited July 23, 2025).

[124] The CJW program in Alaska was the brainchild of a 2016 Alaska Supreme Court committee convened to address, among other things, the resource deficits afflicting rural communities. *See Alaska Legal Services Corporation: Moving Beyond Lawyer-Based Solutions with Community Justice Workers,* LEGAL SERVS. CORP., https://lsc-live.app.box.com/s/4m9rcenmeu46uxvqe4d4gko0s528pu3t (last visited July 23, 2025); Talk Justice, *Taking Community Justice Workers Nationwide*, LEGAL TALK NETWORK (Jan. 9, 2024) (interviewing former Alaska LSC Executive Director Nikole Nelson).

[125] Once trained and supervised, some CJWs can do more than traditional paralegals, sometimes even offering in-court assistance. *E.g.*, *Community Justice Worker Program*, ALASKA LEGAL SERVS. CORP., https://www.alsc-law.org/cjw/ (last visited July 23, 2025) (indicating plans to prepare CJWs to represent clients in court). For the traditional constraints on paralegals, see *supra* note 30 and accompanying text.

up their capacity and expand their reach.[126]

In 2020, Arizona authorized its first CJW program. Initially focused on domestic violence, that program was subsequently expanded to a range of areas.[127] Utah has, likewise, authorized a smattering of CJWs,[128] and, in 2022, Delaware launched a CJW program specifically to serve tenants in eviction proceedings.[129] In Hawaii, the Rural Paternity Advocate Pilot Project authorizes supervised nonlawyers to assist in paternity, custody, and visitation matters.[130] Meanwhile, South Carolina has recently authorized what amounts to a CJW program to help those facing eviction actions; New York had done the same for debt collection actions but the program's fate is currently uncertain. Both programs came about, not organically, but as a result

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[126] *See*, *e.g.*, *Closing the Justice Gap: How to Make the Civil Justice System Accessible to All Americans: Hearing Before the S. Comm. on the Judiciary*, 118th Cong. 4 (2024) (statement of Nikole Nelson, CEO, Frontline Justice).

[127] Initially, Arizona limited this effort to a single organization (namely, Emerge! Center Against Domestic Abuse) and a single jurisdiction (Tucson). In 2023, Arizona expanded the program statewide. Cayley Balser & Stacy Rupprecht Jane, *The Diverse Landscape of Community-Based Justice Workers*, IAALS BLOG (Feb. 22, 2024). In early 2023, it authorized a second CJW program focused on housing issues. Authorizing a Housing Stability Legal Advocate Pilot Program, No. 2023-19 (Ariz. 2023). Then, in 2025, it expanded the program to six additional areas. ARIZ. CODE OF JUD. ADMIN. § 7-211 (2025); Press Release, Arizona Supreme Court Approves Expanding Community-Based Justice Worker Programs (Mar. 26, 2025).

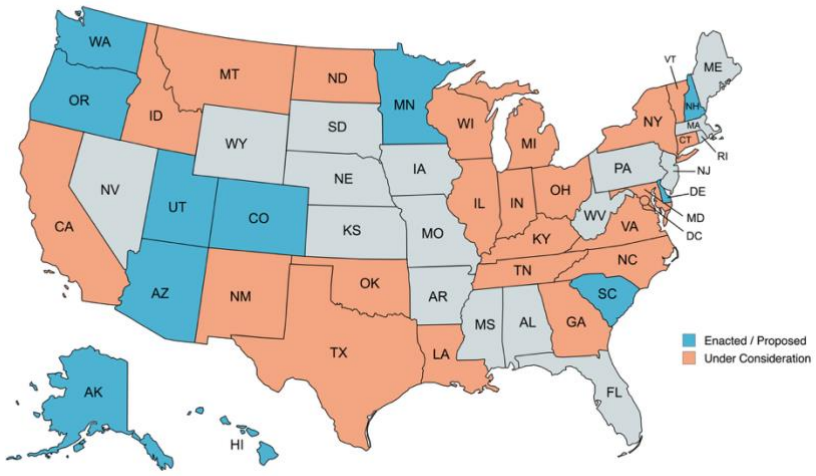
[128] Three examples include the Timpanagos Legal Center (which provides services in the area of domestic violence), Holy Cross Ministries (which provides services in the area of consumer medical debt), and Community Justice Advocates (which provides services in the areas of consumer medical debt, housing, and domestic violence). *Authorized Entities*, UTAH OFF. OF LEGAL SERV. INNOVATION, https://utahinnovationoffice.org/authorized-entities/ (last visited Apr. 17, 2025). Utah authorized these programs through the state's regulatory sandbox—a space where entities can apply for a waiver of UPL rules to allow nonlawyers to deliver legal services. For more on the Utah regulatory sandbox, see UTAH OFF. OF LEGAL SERVS. INNOVATION, https://utahinnovationoffice.org/innovation-office-metrics/.

[129] Balser & Jane, *supra* note 127.

[130] *In re* Rural Paternity Advocate Pilot Project: Order Establishing a Rural Paternity Advocate Pilot Project, SCMF-23-0000343 (Haw. 2023); *In re* Rural Paternity Advocate Pilot Project: Order Extending the Pilot Project, SCMF-23-0000343 (Haw. 2025).

of impact litigation.[131] The figure below provides context.

Figure 1: Nonlawyer Assistance Permitted or Under Active Consideration, 2015-2025



These recent reforms vary on the particulars. They were instituted at different times, via different processes, in different places. Some attempt to reach the middle class; others serve low-income individuals. Some, such as the programs in Delaware and South Carolina, restrict providers to particular subject-matter areas (e.g., eviction). Others, such as the programs in Arizona, Alaska, and Utah, cover the waterfront. Some, such as the CJW program in New York, limit providers to simple, discrete tasks. Others, such as the paraprofessional program in Minnesota, permit providers to engage in a wide range of activities.[132] Some, like the LLLT program in

[131] For more on the New York litigation, see Upsolve, Inc. v. James, No. 22-1345 (2d Cir. 2025); Andrea Keckley, *2nd Circ. Allows NY AG to Curb Nonprofit's Debtor Coaching*, LAW360, Sep. 9, 2025; Nick Rummell, *2nd Circuit Seems Unlikely to Allow Nonprofit to Keep Offering Legal Advice*, COURTHOUSE NEWS SERV., May 29, 2024. For more on South Carolina, see Sara Merken, *South Carolina Court Says NAACP Program Doesn't Violate Legal Practice Curbs*, REUTERS, Feb. 14, 2024.

[132] *See* MICHAEL HOULBERG & NATALIE ANNE KNOWLTON, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., ALLIED LEGAL PROFESSIONALS: A NATIONAL FRAMEWORK FOR PROGRAM GROWTH 15–17 (2023) (describing the

Washington, draw the line at in-court assistance. Others, like the paraprofessional program in Arizona, permit even this type of representation. Some, like Colorado's paraprofessional program, impose strict education, examination, and regulatory requirements. Others, as in states that have adopted the CJW model, have lower barriers to entry.[133] Yet: In all these states, and across all these programs, authorized nonlawyers are permitted to engage in activities that would otherwise constitute the practice of law.

In this swirl of activity—and, particularly, at this moment, as various states that have not yet relaxed their UPL rules are considering whether to follow suit—one question looms large: How, exactly, do nonlawyer providers fare? Do these individuals provide high-quality legal services? Or, is it true, as the many still insist, that having a JD remains necessary, to ensure that legal services are furnished with "integrity and competence"?[134]

That is the question to which we now turn.

II. EMPIRICAL RESEARCH ON NONLAWYER PROVIDERS

Part I demonstrated that, for well over a century, nonlawyer professionals have engaged in activities that technically constitute the practice of law. What can we learn from this experience?

Mining available evidence, this Part shows that knowledgeable, trained nonlawyers can be effective advocates across a variety of domains. Section A sets the stage by offering caveats about the diverse scenarios in which nonlawyer providers have been studied and the different methodologies that these studies employ. Then, Section B canvasses half-a-century of empirical evidence from the United States, while Section C looks beyond the United States to assess evidence from the United Kingdom.

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roles and responsibilities across active and proposed state allied legal professional programs).

[133] *See id.* at 21–26 (detailing differences across state programs with respect to, inter alia, eligibility, education, and practical training; testing; licensing; and fee-sharing).

[134] Model Code of Prof'l Responsibility EC 3-1 (1980) ("The prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence.").

A. Research Scope & Methodology

A number of scholars, from a range of disciplines, have evaluated nonlawyer legal service delivery. Some have evaluated various state court proceedings, where (as explained above) UPL carve-outs allow—and have long allowed—nonlawyers to operate.[135] Some have zeroed in on administrative tribunals (both federal and state), where, again, certain nonlawyer advocates are, and have long been, authorized.[136] And, some have studied nonlawyers overseas, particularly in the United Kingdom, where, thanks to a different regulatory structure, nonlawyers can offer a wide range of assistance.[137]

Meanwhile, just as scholars have studied a range of nonlawyer activity, they have deployed a range of methodologies. Some have engaged in docket and case analysis.[138] Others have learned by observation.[139] Others have conducted interviews.[140] Still others have had experts systematically evaluate lawyer- and nonlawyer-generated work product.[141] But, wherever they've worked and however they've gathered evidence, researchers have tended to focus on two core questions. Are nonlawyers effective (outcome-based metrics)? And, if they are effective, why (process-based metrics)?

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[135] *E.g.,* Duquette & Ramsey, *infra* notes 207-210.

[136] *E.g.,* HERBERT M. KRITZER, LEGAL ADVOCACY: LAWYERS AND NONLAWYERS AT WORK (1998); Hostetler, *supra* note 81.

[137] *E.g.,* Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 LAW & SOC'Y REV. 765 (2003). While it may be tempting to dismiss research from England and Wales as involving sufficiently different legal systems, Deborah Cantrell notes, at least in regard to Richard Moorhead et al.'s work, that "the systemic differences are modest enough that the study's results remain relevant to discussions about nonlawyer practice in the United States." Deborah J. Cantrell, *The Obligation of Legal Aid Lawyers to Champion Practice by Nonlawyers*, 73 FORDHAM L. REV. 883, 890 (2004).

[138] *E.g.*, Anna E. Carpenter et al., *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 LAW & SOC. INQUIRY 1023 (2017).

[139] *E.g.*, KRITZER, *supra* note 136.

[140] *E.g.*, Charles E. Clark & Emma Corstvet, *The Lawyer and the Public: An A.A.L.S. Survey*, 47 YALE L.J. 1272 (1938).

[141] *E.g.,* LEGAL SERVS. CONSUMER PANEL, REGULATING WILL WRITING 2–3 (2011).

Before proceeding, two points bear mention. First, what some of these studies try to do (implicitly or explicitly) is to compare the representation furnished by nonlawyers to the representation furnished by lawyers. Yet, to do that well, we'd need a good sense of the quality of representation that lawyers provide. Just how good are lawyers along various dimensions? How satisfied are clients with the representation they receive? How often do lawyers drop the ball or breach their professional obligations? We also, perhaps, would have a good sense of what clients actually *want* when they go to lawyers—as that is at least arguably key to knowing how to assess "quality" in the first instance.[142] (For example, a lawyer who maximized the value of a client's claim by engaging in protracted, bare-knuckled litigation has not served the client well if the client actually just wanted a speedy, no-fuss recovery.) Unfortunately, our collective understanding of what clients want[143]—and whether lawyers satisfy (or fail to satisfy) clients' objectives—is unbelievably thin.[144]

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[142] Individuals, logically, do not want the same thing when they go to law. Personal injury client A, for instance, may want to maximize her monetary recovery, no matter the cost. Personal injury client B might want to obtain a fair sum, for a minimum of time and trouble. Divorce client A might want to inflict as much pain as possible on her former spouse. Divorce client B might want the opposite. In these scenarios, a lawyer who served client A well might not serve client B well at all. This variability, based on client preferences, contrasts sharply with the medical sphere where we can confidently compare doctor A with doctor B, as most patients, most of the time, want the same thing (to recover from illness or injury fully and expeditiously—and not die). Further, when medical professionals err, deaths sometimes follow, and these deaths are comparatively easy to count and hard to hide. When lawyers err, the err can be more easily swept under the rug and chalked up to the difficulty of the underlying case. For a compilation of existing research about client desires, see Nora Freeman Engstrom & Lisa Qian, *The Injunctive Effect of Tort Law* (forthcoming 2026).

[143] *See* Deborah R. Hensler, A Glass Half Full, *A Glass Half Empty: The Use of Alternative Dispute Resolution in Mass Personal Injury Litigation*, 73 TEX. L. REV. 1587, 1626 (1995) ("We do not really know what . . . claimants want from the civil justice system, what they expect, or what they think of what they get.").

[144] *See*, *e.g.*, Carpenter, *supra* note 138, at 1024 ("[S]cholars . . . know little about the mechanisms of lawyer representation, or what lawyers do that actually help parties in civil litigation.") (citations omitted); Nora Freeman Engstrom & Brianne Holland-Stergar, *Competition and Contingency Fees*, __ GEO. L.J. (forthcoming 2026) ("[T]he market for legal services is marked by a near total absence of objective information bearing on provider quality."); Herbert M. Kritzer, *Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 101 (1997) (recognizing that "we know almost nothing about the frequency of 'legal error,'

Second, what is missing from this compilation of research on nonlawyers—because there are none available—are randomized control trials, the gold standard in empirical research. There have only been a few such randomized control trials exploring the effects of lawyer representation more broadly,[145] and those studies, in the view of some, raise more questions than they answer.[146] Although we wish it were otherwise, we don't yet have a single randomized controlled trial that evaluates how those represented by lawyers v. nonlawyer professionals fare.[147]

B. Evidence from the United States

Below, we compile evidence from the United States in three parts, moving, essentially, from least rigorous to most rigorous. We begin with a set of anecdotal accounts. Next, we turn to more recent empirical research. Finally, we present a third, more rigorous tranche of evidence drawn from quantitative comparisons between nonlawyer representatives, lawyers, and pro se litigants. All three buckets of evidence point in the same direction: Nonlawyers, when assisting and representing clients across a range of legal domains, consistently provide competent—and often high-quality—assistance.

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a term that parallels the idea of "medical error'"); Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 STAN. J. C.R. & C.L. 283, 298 (2020) ("Vanishingly few systematic empirical studies assess the quality of lawyers' work"). For a more general discussion, see William H. Simon, *Where is the "Quality Movement" in Law Practice?*, 2012 WISC. L. REV. 387 (2012).

[145] *E.g.,* D. James Greiner & Cassandra Wolos Pattanayak, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?*, 121 YALE L.J. 2118, 2125 (2011) (finding that a law student's offer of representation delayed the resolution of an individual's claim without increasing the individual's odds of success, although cautioning that the study "come[s] to no firm conclusions regarding a use-of-representation effect on the win rate" in the unemployment insurance context); D. James Greiner et al., *The Limits of Unbundled Legal Assistance: A Randomized Study in A Massachusetts District Court and Prospects for the Future*, 126 HARV. L. REV. 901, 934 (2013) (finding that tenants furnished access to representation fared better than their unrepresented counterparts).

[146] *E.g.,* Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 PEPP. L. REV. 881, 900–02 (2016).

[147] *See* Michael Pusic, *Student Voices: Non-lawyer Legal Services in Agency Immigration Litigation*, HARVARD A2J LAB, June 30, 2025 (making this point).

1. *Anecdotal Evidence*

The first constellation of evidence consists mostly of agency assessments of their own nonlawyer practice. These overwhelmingly positive reports consistently suggest that nonlawyer representation enhances, rather than impedes, administrative processes.

The first appraisal we have surfaced comes from 1940, when the Veterans Administration offered an evaluation of its nonlawyer practitioners. According to the agency, these nonlawyer practitioners, who were generally affiliated with service organizations, tended to be "expert," "learned," "experienced in matters pertaining to veterans affairs," and to offer representation "of the highest caliber."[148]

The story at the Federal Security Agency was similar. In 1948, the agency's administrator reported that "[r]epresentation by nonattorneys is the rule, rather than the exception," and relayed that this situation had led to "no abuses or problems."[149] According to the administrator, "the liberal and informal policy" that the agency had adopted when authorizing lay practitioners had "paid dividends in good public relations and in encouraging representation which" had "proved helpful both to the claimants and to the agency."[150]

The experience at the Interstate Commerce Commission (ICC) (now subsumed into the Department of Transportation), was much the same. As of 1948, the ICC reported that 3,142 individuals were authorized to practice before the Commission; a little over half of these authorized practitioners (1,678) were nonlawyers.[151] According to the ICC's then-Chairman, these nonlawyers tended to be "well informed."[152] Concurring, representatives of the Association of ICC Practitioners reported that the presence of nonlawyers "discourage[d] undue formalism and legalistic technicalities" and ensured that "all interested

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[148] VA MONOGRAPH, *supra* note 84, at 38.

[149] 1948 Hearing, *supra* note 68, at 445–46 (statement of Maurice Collins, Acting Administrator, Federal Security Agency).

[150] *Id*. at 446.

[151] *Id*. at 191 (statement of Warren H. Wagner and Granville Curry, Association of ICC Practitioners).

[152] *Id*. at 452–53 (statement of Walter M. W. Splawn, Chairman, ICC).

parties" had "a reasonable opportunity . . . to be heard."[153] In sum: "[T]here appears to be lacking any evidence of abuses or injury to the public by reason of practice by nonlawyers."[154]

Next up, in 1957, the Supreme Court of Colorado considered whether real estate brokers should be enjoined from preparing legal instruments. In declining to enjoin the brokers' conduct, the court was swayed by testimony that showed that the majority of Coloradans had used lay services for "at least 50 years."[155] Yet, the bar had come forward with not even a shred of "evidence of any instance in which the public or any member thereof, layman or lawyer has suffered injury" as a consequence.[156]

Then, in 1963, the U.S. Supreme Court weighed in on the activities of nonlawyer patent agents. It observed that, in response to inquiries, the U.S. Patent Office had reported that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[157]

In 1978, the Supreme Court of New Mexico offered a similar assessment. The underlying case arose when the New Mexico bar brought UPL charges against two title companies, seeking to enjoin their practices. In evaluating these charges, the court noted that, at the time of trial, evidence demonstrated that nonlawyers had been handling "approximately ninety percent of the" county's "real estate loan closings" and had been "performing the acts complained of for approximately twenty years."[158] In all this time, the court observed, no evidence surfaced to indicate that the reliance on nonlawyers was "accompanied by any great loss, detriment or inconvenience to the public."[159] Yet, on the other side of the coin, there existed "uncontroverted evidence . . . that using lawyers for this simple

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[153] *Id*. at 195 (statement of Warren H. Wagner and Granville Curry, Association of ICC Practitioners).

[154] *Id*.

[155] Conway-Bogue Realty Inv. Co. v. Denver Bar Ass'n, 312 P.2d 998, 1007 (Colo. 1957).

[156] *Id*.

[157] Sperry v. State of Fla. ex rel. Fla. Bar, 373 U.S. 379, 403 (1963).

[158] State Bar v. Guardian Abstract & Title Co., Inc., 575 P.2d 943, 945 (N.M. 1978).

[159] *Id*. at 949.

operation considerably slowed the loan closings and cost the persons involved a great deal more money."[160]

The U.S. Supreme Court, in 1985, considered nonlawyer service representatives appearing before the Board of Veterans' Appeals (BVA).[161] The Court found compelling the "[r]eliable evidence" presented to the District Court that, collectively, nonlawyer representatives from four service organizations had a 16.6% success rate before the BVA, compared to an 18.3% success rate when represented by attorneys and only a 15.2% success rate when unrepresented.[162]

Also in 1985, Jacob Wolf of the Social Security Administration (SSA) shared that nonlawyers frequently represented individuals before the SSA, also without incident. "[W]e have very few problems with nonlawyer representations before the Social Security Administration," he explained, "and we find the overall quality of their representation to be high."[163] Indeed, according to Wolf, even when claims are complex, lawyers did not "perform significantly better than experienced nonlawyers."[164]

The following year, the Administrative Conference of the United States (ACUS) added its voice to the chorus. After observing that a "substantial number of individuals involved in federal 'mass justice' agency proceedings need and desire assistance in filling out forms, filing claims, and appearing in agency proceedings, but are unable to afford assistance or representation by lawyers," ACUS expressly encouraged lay representation.[165] Bolstering that recommendation

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[160] *Id*.

[161] Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 327 (1985).

[162] The service organizations and their individual success rates are as follows: American Legion (16.2%); American Red Cross (16.8%); Disabled American Veterans (16.6%); Veterans of Foreign Wars (16.7%). *Id*. at 327.

[163] Jacob M. Wolf, *Nonlawyer Practice before the Social Security Administration*, 37 ADMIN. L. REV. 413, 415 (Fall 1985). Wolf was, at the time, the Assistant to the Director of the Office of Policy and Procedure in the Office of Hearings and Appeals in the Social Security Administration. *See* Colloquium Proceedings, *id.* at 411.

[164] Colloquium Proceedings, *id*. at 426.

[165] Nonlawyer Assistance and Representation (Recommendation No. 86-1), 51 Fed. Reg. 25641, 25641-25642 (July 16, 1986) (citations omitted). In December 2024, ACUS expanded on this and related recommendations by issuing best

was its finding that "experience and statistics indicate that qualified persons who are not lawyers generally are capable of providing effective assistance to individuals in mass justice agency proceedings."[166]

Finally, in 1995, when the New Jersey Supreme Court considered the nonlawyer real estate broker practices in South Jersey, it explained that the "record fails to demonstrate that the public interest has been disserved" by that practice.[167] The court went on to state: "the absence of proof is particularly impressive, for the dispute between the realtors and the bar is of long duration, with the parties and their counsel singularly able and highly motivated to supply such proof as may exist."[168]

2. *Studies Assessing the Value of Nonlawyer Representation (But that Lack Clear Comparisons to Lawyer Performance)*

This next tranche of research sheds light on the value of nonlawyer representation, although it comes with two caveats: (1) Many of the studies in this part are limited owing to various methodological challenges or deficiencies, and (2) these studies do not offer a head-to-head matchup of lawyers v. nonlawyers. Like the accounts above, they instead bear more broadly on the value of nonlawyer representation.

The first study in this vein dates back to 1985 and involves an ABA survey of nonlawyer practice before federal administrative agencies.[169] To get a handle on then-existing lay practice, the ABA sent a questionnaire to all agencies, garnering a response rate of 97%.[170] The ABA reported that "the overwhelming majority of agencies studied

practices "for incorporating and increasing representation and assistance by permitting broader practice by nonlawyers in different types of adjudicative systems." Nonlawyer Assistance and Representation in Agency Adjudications (Recommendation 2024-7), 89 Fed. Reg. 106409, 106409 (Dec. 30, 2024).

[166] Recommendation No. 86-1, 51 Fed. Reg. at 25642.

[167] *In re* Opinion No. 26 of the Committee on the Unauthorized Practice of Law, 654 A.2d 1344, 1346 (N.J. 1995).

[168] *Id*.

[169] AM. BAR ASS'N, RESULTS OF THE 1984 SURVEY OF NONLAWYER PRACTICE BEFORE FEDERAL ADMINISTRATIVE AGENCIES 1 (1985).

[170] *Id*.

permit nonlawyer representation in both adversarial and nonadversarial proceedings," although, in practice, some "seem to encounter lay practice very infrequently."[171] The report continued:

> Most [agency respondents] reported that they had not encountered any problems with misconduct by nonlawyers or any inability of nonlawyers to meet appropriate ethical standards . . . . Of those that voiced complaints about nonlawyers' skills in representation, most indicated that the problem they encounter most frequently is nonlawyers' lack of familiarity with procedural rules and tactics. The majority of responses suggest that nonlawyers do not pose any special practice problems, nor do they receive any special disciplinary considerations.[172]

All other studies in this Section are more recent. Of these, Thomas Clarke and Rebecca Sanderfur conducted the first, evaluating the early implementation of Washington's LLLT program, which, as noted above, authorizes certified nonlawyers to assist clients with defined family law matters.[173] Drawing on structured interviews with LLLTs' clients (among others), Sandefur and Clarke found that clients "uniformly reported that LLLTs provided competent assistance" and that this assistance improved their legal outcomes.[174]

In a 2021 study, Jason Solomon and Noelle Smith reached roughly the same conclusion after interviewing more than 20 key stakeholders (including lawyers, judges, educators, clients, and LLLTs themselves) and reviewing additional client testimonials that the LLLT board had gathered.[175] Clients, Solomon and Smith found, described "overwhelmingly positive experiences with LLLTs."[176] Attorneys, who worked with LLLTs in a variety of contexts, likewise reported

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[171] *Id*.

[172] *Id*.

[173] THOMAS M. CLARKE & REBECCA L. SANDEFUR, PRELIMINARY EVALUATION OF THE WASHINGTON STATE LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 5–6 (2017).

[174] *Id.* at 6, 9.

[175] SOLOMON & SMITH, *supra* note 117, at 5–6.

[176] *Id*. at 9.

high satisfaction with the practitioners' work.[177] The same was true for many judges and commissioners, some of whom reported efficiency gains in cases involving LLLTs and "that LLLT work product is often higher quality and easier for the court to consume than attorney work product."[178]

Similar evidence of nonlawyer effectiveness has emerged from Minnesota, which recently made its licensed paraprofessional program permanent.[179] The Minnesota Supreme Court committee tasked with overseeing the program surveyed paraprofessionals' clients as part of the interim pilot evaluation, and 15 out of 17 "were satisfied or very satisfied with the services they received."[180] The same number "were likely or very likely to recommend the services of a legal paraprofessional to their family or friend."[181] Further, supervising attorneys who responded to the survey (12 out of 13) reported being "[*v*]*ery satisfied* with the quality of work provided by paraprofessionals under their supervision, and no respondents reported

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[177] *Id*. at 12.

[178] *Id*. at 13. Unfortunately, Soloman and Smith do not report the response rates of interviewed stakeholders, limiting our ability to assess the generalizability of their findings. Nonresponse bias may be a concern. For example, if those with more favorable views of LLLTs were more likely to respond, the results may overstate satisfaction. The extent to which we can generalize from respondents to the full sample of respondents *and* nonrespondents depends on both (a) the response rate (which is usually known but is unreported here) and (b) the degree of difference between respondents and nonrespondents on relevant outcomes (which is, by definition, never known). Regarding the former, some survey methodologists caution that response rates below 50% or 60% may impair reliability and generalizability. *See* JoLaine Reierson Draugalis et al., *Best Practices for Survey Research Reports: A Synopsis for Authors and Reviewers*, 72(1) AM. J. PHARM. EDUC. 1, 3 (2008). Others avoid naming strict numeric thresholds, noting that low response rates can still yield credible findings when respondent and nonrespondent differences are small, and that high response rates can still produce bias when such differences are large. *See* ROBERT M. GROVES & MICK P. COUPER, NONRESPONSE IN HOUSEHOLD INTERVIEW SURVEYS 6–7 (1998); DON A. DILLMAN, JOLENE D. SMYTH & LEAH M. CHRISTIAN, INTERNET, PHONE, MAIL, AND MIXED-MODE SURVEYS 6 (4th ed. 2014).

[179] Order Amending Rules Governing Legal Paraprofessional Pilot Project, No. ADM19-8002 (Minn. 2024).

[180] STANDING COMM. FOR LEGAL PARAPRO. PILOT PROJECT, MINN. SUP. CT., FINAL REPORT AND RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT 8 (2024).

[181] *Id*.

being dissatisfied."[182] Of the 14 judge-respondents, nine "agreed that paraprofessionals displayed appropriate decorum in the courtroom," eight "reported paraprofessionals were aware of applicable court rules," and 11 "agreed that paraprofessionals observed courtroom courtesies."[183] Notably, however, the samples were small, and response rates were not especially high (34% for invited judicial officers, 48% for invited supervising attorneys, and an undisclosed response rate for clients), so these findings should be taken with a grain of salt.[184]

Data from Utah tells a similar story. In particular, between June 2021 and June 2024, CJWs at Utah's Timpanogos Legal Center helped clients seek a total of 225 domestic violence protective orders; an *ex parte* order was issued in 205 cases and denied in only 20.[185] Of the 205 cases with *ex parte* orders issued, the court denied final orders in only 17.[186] Notably, this success rate stacked up favorably, as against the statewide average: "clients receiving legal services from an advocate [were] roughly twice as likely to receive a protective order," as compared to individuals generally (who reflected a mix of lawyer-represented and self-represented individuals).[187]

Alaska's CJW program, too, is demonstrating initial successes, based on data collected between 2018 and 2024, which focused on CJWs' impact on Supplemental Nutrition Assistance Program (SNAP) benefit denials. Due to a confluence of events, between 2022 and 2023, the Alaska Legal Services Corporation (ALSC), which pioneered the CJW concept, saw a 2,000% increase in SNAP benefits delay and denial cases.[188] These cases came to comprise one-third of ALSC's entire caseload.[189] During this SNAP crisis, approximately 60 CJWs were trained to take SNAP cases, expanding the reach of the then-25 staff attorneys at ALSC. These CJWs were able to close nearly 500 cases

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[182] *Id*. at 7.

[183] *Id*. at 8.

[184] *Id.* at 5–6.

[185] CHRISTIAN ABASTO ET AL., INCREASING ACCESS TO JUSTICE THROUGH COMMUNITY JUSTICE WORKERS: A PROPOSAL FOR CALIFORNIA 8 (2024).

[186] *Id*.

[187] *Id*. at 9.

[188] Joy Anderson et al., *Community Justice Workers: Part of the Solution to Alaska's Legal Deserts*, 41 ALASKA L. REV. 9, 12–15 (2024).

[189] *Id*. at 14.

and recover $1.43 million in food security benefits for ALSC clients.[190] Their success rate in resolving clients' SNAP delay issues: 100%.[191]

Finally, in late 2024, the Arizona Administrative Office of the Courts gathered qualitative and quantitative data on its Legal Paraprofessional (LP) program, administering four separate surveys: to attorneys; to judicial officers; to clients who had been served by LPs; and to LPs themselves.[192] Responses were encouraging. Most judges who responded to the survey agreed or strongly agreed that LPs were "aware of applicable court rules" (88%) and that LPs "displayed appropriate courtroom decorum" (90%).[193] Many attorneys likewise agreed or strongly agreed to these points as well: 55% and 59%; respectively.[194] Similar percentages of judges (58%) and attorneys (59%) agreed "that hearings with a LP take less time than hearings with self-represented litigants" although judges and attorneys (65% and 67%; respectively) also agreed that LPs "take longer in hearings than an attorney"[195] and that LPs could benefit from additional training on rules of procedure and evidence.[196] Client opinions on LPs were very high: 100% of the client-respondents (34) were satisfied or highly satisfied with the services they received and with how their LP responded to their case and their needs.[197] With respect to LP communication skills, 97% of clients were satisfied or highly satisfied.[198] However, much like with the Minnesota study discussed above, response rates were not especially high (38% for judicial officers, and an undisclosed response rate for attorneys' clients),[199] so these findings similarly should be viewed with caution.

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[190] *Id*. at 19.

[191] *Id*. at 19–20.

[192] ARIZ. SUP. CT., ASSESSING ARIZONA'S LEGAL PARAPROFESSIONALS: 2024 PROGRAM SURVEY (2024). For discussion of Arizona's program, see *supra* note 120 and accompanying text.

[193] *Id*. at 19.

[194] *Id*.

[195] *Id*. at 14.

[196] *Id*. at 19.

[197] *Id*. at 22.

[198] *Id*.

[199] *Id.* at 5, 7.

3. *Studies Comparing Nonlawyers to Lawyers*

The third tranche of evidence more expressly compares the value of lawyers to their nonlawyer counterparts. The studies we catalog here, in our view, bear most directly on the matter at hand. That said, each of these studies is observational, and in each, there's a real possibility of selection effects. Clients may intentionally choose nonlawyer providers for cases that appear simpler or easier to win, which could help explain why outcomes for lawyer- and nonlawyer-representation look similar.[200] In addition, when clients hire lawyers, as opposed to nonlawyers, they may have higher expectations for professional practice, which might help to explain findings concerning client satisfaction.

With those caveats, the first study pitting lawyers against nonlawyers was published in the *Yale Law Journal* in 1938. The underlying survey was started five years before, when, at the behest of the Association of American Law Schools, Charles Clark, then Dean of Yale Law School, partnered with Emma Corstvet to "look into the question of the lawyer's service to the general public"[201] and to assess "how the needs of the community for legal services were being met."[202] For leverage on the question, a team of supervised researchers interviewed 473 individuals (representing 412 residents and 61 businesses) from New Haven and Hartford, Connecticut; about half of these respondents had "had some legal transactions of one sort or another during the past year," and some had more than one.[203] Of the residents, 35% sought some sort of outside advice: 86% from a lawyer, and 14% from a

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[200] Crucially, we do not know what would happen if representation were randomly assigned—hence the need for the gold standard randomized control trial, as discussed above. *See supra* notes 145–147 and accompanying text. Even so, logically, many of the same selection problems would also afflict (most) studies comparing represented and unrepresented parties; yet those studies find a benefit from representation. *See infra* note 284 and accompanying text; *but cf*. Greiner & Pattanayak, *supra* note 145 (concerning an offer of representation, in a study deploying random assignment).

[201] Clark & Corstvet, *supra* note 140, at 1272 n.2 (quoting HANDBOOK, ASS'N AM. L. SCHOOLS 125 (1933)).

[202] *Id*. at 1272.

[203] *Id*. at 1273, 1276. Because some had more than one legal "transaction" there were 557 transactions in all. *Id*. at 1276–77. According to the researchers, "[r]efusals to answer were negligible—too few to cast doubt upon the results." *Id*. at 1274.

nonlawyer adviser, such as an insurance company, realtor, auto club, or bank. Generally, those who sought some sort of outside advice were more satisfied than those who didn't (satisfaction rates ranged from 48% to those who consulted someone, versus 28% for those who didn't).[204]

From there, however, the data took what Clark and Corstvet characterized as an "intriguing but strange" turn:

> If we deal with practicing lawyers alone, we find that … the extent of dissatisfaction as somewhat higher than for all advisers. To put it another way, where advice was sought of other than lawyers, it was almost invariably reported as satisfactory, whereas the dissatisfied interviewees had consulted lawyers in all cases but one. The reasons given for dissatisfaction with the lawyer were various: Many charged him with fraud, incompetence, delay; one that he lost the case.[205]

Ultimately, they reported: "When people seek outside advice they are much more apt to be satisfied than dissatisfied by the outcome, but when they seek it of a practicing lawyer, satisfaction, while still much greater than dissatisfaction, is not quite as high as for other advisers."[206]

The next major study was published in 1987. In it, Donald Duquette and Sarah Ramsey assessed the representation of children in abuse and neglect cases.[207] In particular, Duquette and Ramsey zeroed in on a National Center for Child Abuse and Neglect demonstration project in Genesee County, Michigan, wherein a range of specially trained nonlawyer providers—including law students and lay volunteers—represented children in civil protection proceedings.[208]

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[204] *Id*. at 1277–79.

[205] *Id*. at 1281.

[206] *Id*. at 1281.

[207] Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987).

[208] *Id*. at 351–58.

Their work yielded two striking findings. First, they found that trained nonlawyers significantly outperformed untrained court-appointed lawyers on various process measures (e.g., investigation, contact with child and family, advocacy) and outcomes measures (e.g., more specific court orders for treatment and assessment, quicker case resolutions, and fewer court hearings taken to resolve the case).[209] Second, although trained nonlawyers performed markedly better than untrained lawyers, they performed just as well as trained lawyers.[210] In short, while the study offers compelling evidence that specialized training enhances the quality of representation, it casts doubt on whether a law license alone does.

In a major study published the following year, Zona Fairbanks Hostetler reached a similar conclusion. For this study, prepared at the behest of the Administrative Conference of the United States, Hostetler focused on the SSA and the Immigration and Naturalization Service (INS) (two agencies where nonlawyers can represent individuals).[211]

First, Hostetler evaluated outcome data. Crunching the numbers, Hostetler found that individuals represented by nonlawyers fared nearly as well as those represented by lawyers and, crucially, substantially better than those without representation.[212] For example, SSA statistics from 1983 showed that "[c]laimants represented by nonlawyers were more likely to win their cases than they were if unrepresented. Moreover, representation by nonlawyers resulted in reversal rates after hearings that were almost as high as those achieved by lawyers."[213] The reversal rate was 43.7% when the claimant was

[209] *Id*. at 342–43, 350–56, 365–66, 389. The trained nonlawyers included both nonlawyer volunteers and law students.

[210] *Id*. at 362, 390 (summarizing their finding that "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training").

[211] Hostetler, *supra* note 81, at 87.

[212] *Id.* at 88. This conclusion was supported by both quantitative data on hearing outcomes and qualitative interviews with agency officials and representatives from relevant legal aid and social services agencies. *Id*. at 87.

[213] *Id*. at 103–04.

unrepresented, 54.5% when represented by a nonlawyer, and 59% when represented by a lawyer.[214]

Hostetler then fortified her quantitative results with interviews of agency officials and representatives from legal aid and social services agencies. In these conversations, agency personnel gave nonlawyer representatives high marks.[215] According to Hostetler: "[T]here is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[216] Nonprofit employees expressed a similar sentiment. In interviews, these employees—with boots-on-the-ground experience—emphasized the value of nonlawyers' specialized training in filling out agency forms and answering claimants' questions and also reported that "their experience indicated that nonlawyers could be trained to perform virtually all functions in administrative agency proceedings."[217]

Next up, in July 1990, the State Bar of California published a series of surveys concerning "legal technicians" (just another word for nonlawyer professionals).[218] The survey that is most relevant for our current purposes compiled the views of California consumers who had appeared in court without a lawyer. Researchers sent the survey to 27,450 individuals; of these, 292 responded, yielding a response rate of 1.1%.[219] Over half of the respondents (53%) reported that, although they formally appeared pro se, "someone helped them prepare their court papers."[220] Of these helpers, one-quarter had been lawyers; three-quarters had been nonlawyers.[221]

Where it gets interesting is when it comes to satisfaction. In particular, when assessing satisfaction between the two cohorts, the researchers found: "While 64% of those who received some assistance from

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[214] *Id*.

[215] *Id.* (reporting on "a high level of satisfaction with nonlawyer representatives").

[216] *Id*.

[217] *Id.* at 105. By contrast, they opined that lawyers "rarely, if ever, received any training in these functions as part of their law school curricula." *Id*.

[218] REPORT OF THE STATE BAR OF CAL. COMM'N ON LEGAL TECHNICIANS 14 (1990) [CALIFORNIA REPORT].

[219] *Id*., Exhibit 2 at 2.

[220] *Id*.

[221] *Id*. at 2–3.

lawyers were happy overall with the service and 67% would use a lawyer again, of those who received assistance from a [nonlawyer] 76% were happy with the service and would use such a provider again."[222] This would suggest that (like in Connecticut), California's consumers were comparatively *more* satisfied with services furnished by nonlawyer providers.[223] Also interesting, when consumers were asked why they sought the assistance of a lawyer as against a nonlawyer (or vice versa), consumers identified "cost (69%), convenience (39%), expertise/knowledge (37%), sensitivity/communication (31%) and control of the case (22%)."[224] These results tend to suggest that consumers care about quality—but they care, perhaps even more, about other variables.

Next, in the 1990s, Herbert Kritzer, a prominent political scientist and law professor, compared the effectiveness of lawyers and nonlawyers—here, qualified lay agents—in the context of four administrative settings in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration.[225] Kritzer's methodology involved both observing hearings in each of the four venues and assessing quantitative outcomes. He then supplemented this research with participant surveys and stakeholder interviews. Broadly, Kritzer concluded that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[226]

Kritzer found nonlawyers to be effective in three of the four settings that he studied. First, in unemployment compensation appeals, Kritzer

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[222] CALIFORNIA REPORT, *supra* note 218, at 14.

[223] It is curious that respondents consulted a lawyer but then appeared in court pro se. It could be that some were so dissatisfied with their lawyers that they fired their lawyers and appeared on their own—and that could explain the relatively high rates of dissatisfaction with the services furnished by lawyers. By comparison, many nonlawyers, it seems, were providing services in contravention of California's UPL laws (essentially, under the table), and so they could not have accompanied many of these clients into court.

[224] *Id*., Exhibit 2, at 3.

[225] KRITZER, *supra* note 136, at 21–22. For the unemployment compensation appeals and the tax appeals, Kritzer also included a comparison to unrepresented parties. *Id*.

[226] Kritzer, *supra* note 144, at 100.

analyzed the likelihood of appellant success and found "no indication that, overall, lawyers are more successful than [nonlawyer] agents."[227]

Similarly, in Social Security appeals, Kritzer identified a "small but consistent difference between attorney and nonattorney representatives," but found it "striking how small that difference actually is."[228] Where he detected "a clear difference" was between representatives "with regard to the specialized expertise they bring."[229]

Likewise, in labor grievance arbitrations, Kritzer observed that "it is not the simple lawyer/nonlawyer distinction that accounts for the difference [in likelihood of winning]. Rather it appears to be more a function of specialization. Specialist non-lawyers and specialist lawyers appear to be better advocates than nonspecialist lawyers."[230]

Where Kritzer perceived issues with nonlawyer advocacy was in the tax appeals setting. Here, it was not the nonlawyer practitioners' lack of "substantive expertise" but rather their "lack of procedural expertise."[231] The nonlawyers he deemed problematic, who generally did not handle large numbers of cases before the Tax Appeals Commission, did not appear to understand evidentiary procedures and hearing formalities.

Then, in 2000, Elaine Tackett conducted a rigorous survey of Administrative Law Judges (ALJs) concerning representatives in the SSA.[232] Tackett sent the survey instrument to 350 randomly selected ALJs and received responses from 146, yielding a response rate of 42%.[233] Ultimately, she found that the majority of ALJs (60%) ranked

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[227] KRITZER, *supra* note 136, at 51.

[228] *Id*. at 148–49. According to Kritzer, "the big difference in Social Security appeals appears between the represented and unrepresented claimant." *Id.* at 148.

[229] *Id*. at 148.

[230] *Id*. at 185.

[231] *Id*. at 108.

[232] Elaine Tackett, *Paralegal Representation of Social Security Claimants: A Study of the Perceptions of Social Security Administrative Law Judges on the Quality of Representation of Social Security Claimants by Paralegals*, 16 J. PARALEGAL EDUC. & PRAC. 67 (2000).

[233] *Id*. at 68.

nonlawyer representation as good or satisfactory.[234] (In comparison, 88% of ALJs gave attorneys a passing grade.[235]) When asked who furnished *better* representation, 34% said that nonlawyers outperformed lawyers, while 65% said the opposite. Of the ALJs who believed that "[m]ost paralegals perform better, or significantly better, than most attorneys," most chalked nonlawyers' superiority up to their more diligent preparation.[236] Of those who believed "[m]ost paralegals perform less, or significantly less, well than most attorneys," most attributed lawyers' superiority to the fact that "most paralegals are less familiar with the relevant substantive law." [237] All told, Tackett concluded that, in the SSA, nonlawyers, "overall . . . provide competent representation," even though most ALJs also believed that lawyers furnished somewhat higher-quality services.[238]

In 2017, Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan studied legal representation in another institutional setting where nonlawyers are expressly authorized to practice: DC's Office of Administrative Hearings (OAH).[239] An administrative court that hears de novo appeals from underlying District determinations regarding a worker's qualification for unemployment benefits,[240] the OAH permits either the employer or employee to be represented by lawyers or nonlawyers, at their discretion.[241]

Focusing on the employer side of the equation (because that is where nonlawyers—who tended to be HR-firm employees—frequently supplied representation), Carpenter et al. present a complex set of findings.[242] In the aggregate, they found that lawyer-represented

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[234] *Id*. at 70. In the survey, Tackett specifically dubbed nonlawyers "paralegals."

[235] *Id*.

[236] *Id*.

[237] *Id*.

[238] *Id*. at 73.

[239] Anna E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 LAW & SOC. INQUIRY 1023 (2017).

[240] *Id.* at 1033.

[241] D.C. Mun. Regs. tit. 1, § 2982.1; 1032–33.

[242] Carpenter et al., *supra* note 239, at 1032, 1036 (explaining that, whereas workers were almost exclusively represented by lawyers or supervised clinical law students, employers were represented more than twice as often as workers (42% vs. 18%) and were more frequently represented by nonlawyers employed by third-party HR firms).

employers outperformed nonlawyer-represented employers across various metrics. Lawyers were more likely to ensure client attendance at hearings, disclose and introduce documents, and present witness testimony.[243] When an unrepresented worker squared off against a lawyer-represented employer, the worker won only 47.6% of the time; the rate jumped to 67.5% when the worker squared off against a nonlawyer.[244]

Yet, these disparities vanished in the subset of cases where a nonlawyer representative actually *appeared* at the hearing. (In many hearings, the nonlawyer, ostensibly representing the employer, never showed up.[245]) In *those* cases, nonlawyers notched comparable win rates to their JD-toting counterparts, although, even there, nonlawyers were somewhat more constrained in the ways they challenged judges on issues of substantive law or procedure. The authors concluded that the reason for nonlawyers' overall underperformance rested not so much in individual capability but in institutional design: the HR firms that employ nonlawyers—as opposed to the nonlawyers themselves—were making cost-driven decisions to avoid hearings altogether.[246] Thus, the authors found that nonlawyers, when permitted to fully participate, could offer representation of comparable quality, but their effectiveness was structurally constrained.[247]

The most recent available empirical evidence comes from a Board of Veterans' Appeals (BVA) report published in 2022. Echoing Hostetler's findings from the 1980s, this assessment found that persons represented by nonlawyers tended to fare slightly worse than someone represented by a lawyer and slightly better than someone without representation. In 2022, the BVA—the administrative tribunal that renders appellate decisions on veterans' benefits claims—granted relief in 42.1% of cases where the appellant was represented by an attorney, 34.6% of cases where the appellant was represented by an accredited nonlawyer agent, and 29.2% of cases where the claimant was unrepresented.[248]

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[243] *Id.* at 1042.

[244] *Id.* at 1040–41.

[245] *Id.* at 1041, 1044.

[246] *Id.* at 1044–45.

[247] *Id.* at 1044.

[248] DEPT. OF VETERANS AFFAIRS (VA) BOARD OF VETERANS' APPEALS, ANN. REP. 49 (FY 2022) [hereinafter VA 2022 STUDY]. Nonlawyer agents are

C. Evidence from Overseas

The evidence from outside the United States arrives at the same basic conclusions. In the 1980s, at the request of the then-Lord Chancellor's Department, Professors Hazel Genn and Yvette Genn studied nonlawyer performance in administrative tribunals in England and Wales: Social Security Appeal Tribunals, Immigration Adjudicators, Industrial Tribunals, and Mental Health Review Tribunals.[249] Drawing on over 3,700 case files and nearly 500 observed hearings, the researchers examined how representatives influenced outcomes for claimants.[250] Their central finding was that representation, of any kind, significantly increased claimants' odds of success.[251]

The researchers also conducted 735 interviews where they probed the value of lawyers as against nonlawyers.[252] These interviews revealed that "[f]ew . . . believe that lawyers were necessarily best equipped to conduct representation in tribunals."[253] Similar to Kritzer and Hostetler, Genn and Genn concluded that, when it came to quality representation, "specialisation and experience were the most important qualifications."[254]

In the late 1990s, Richard Moorhead, Avrom Sherr, and Alan Paterson examined the differences between nonlawyers and lawyers (specifically, solicitors) in England and Wales.[255] Their inquiry considered welfare benefits, debt, housing, and employment cases,

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individuals who have passed a VA-administered exam and fulfilled continuing legal education requirements. Dept. of Veterans Affairs Legal Services, General Counsel, and Miscellaneous Claims, 38 C.F.R. § 14.629.

[249] HAZEL GENN & YVETTE GENN, THE EFFECTIVENESS OF REPRESENTATION AT TRIBUNALS: REPORT TO THE LORD CHANCELLOR (1989).

[250] *Id.* at 7.

[251] *Id*. at 243. This finding endured "when other measurable factors related to outcome" were held constant. *Id*. at 107.

[252] *Id.* at 7–9.

[253] *Id*. at 245.

[254] *Id*. at 245–46. That said, the study does not offer a direct, *quantitative* comparison of outcomes between lawyers and nonlawyers. The strongest comparative conclusion the authors offer is that many tribunals and stakeholders do not view lawyers as inherently more effective.

[255] Moorhead et al., *supra* note 137, at 777.

where nonlawyers are permitted to supply certain types of assistance.[256]

This effort is notable for its rigor. Namely, to study the effectiveness of nonlawyers v. lawyers, the researchers capitalized on a rare opportunity provided by a large-scale pilot program (the Civil Nonfamily Block Contracting Pilot), which introduced a contested market between solicitors (lawyers) and not-for-profit nonlawyer agencies (NFPs).[257] They then employed a multifaceted, triangulated methodology to study the performance of these professionals. First, they gathered detailed quantitative data on 82,705 closed cases.[258] Second, they implemented an external peer-review process, wherein trained solicitor reviewers assessed closed case files from both solicitor firms and NFPs using a standardized five-point competence scale.[259] Third, they deployed anonymous "model clients" to pose as real clients and assess adviser performance in live interactions.[260] Finally, to gather client satisfaction data, they conducted a postal survey of over 3,000 real clients, yielding 867 usable responses.[261]

Remarkably, across a broad range of measures, Moorhead et al. found that nonlawyers were not only effective but, in many respects, *outperformed lawyers*. In terms of client satisfaction, nonlawyer advisers scored slightly higher overall: 76% of nonlawyer clients rated their service as excellent or very good compared to 70% of solicitor clients, with statistically significant differences favoring nonlawyers across several dimensions such as emotional attentiveness, having enough time for them, and perceived advocacy.[262] Outcome data further supported nonlawyer effectiveness: clients of nonlawyers were more likely to obtain concrete benefits such as lump sum payments, new or increased regular payments, and the prevention of adverse third-party action.[263]

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[256] For the ins and outs of the assistance that nonlawyers can supply see *id*. at 773.

[257] *Id.* at 775.

[258] *Id.* at 777.

[259] *Id.* at 779.

[260] *Id.* at 780–81.

[261] *Id.* at 782.

[262] *Id.* at 785–86.

[263] *Id.* at 786–87.

Summarizing their findings, the authors wrote:

> [T]hese results indicate a statistically significant difference between solicitors and [nonlawyers] in terms of the quality of their contracted work. [Nonlawyers] had clients with slightly higher satisfaction ratings and got significantly better results, and their work on cases was more likely to be graded at higher levels of quality by experienced practitioners working in their field.[264]

Last but not least, in 2011, a team of experts assessed the quality of 101 wills prepared by a mix of solicitors and non-solicitor providers. The findings were sobering: 25% of wills were assessed as failing to meet basic quality standards. But critically, the experts found no difference in the failure rates; whether prepared by a solicitor or non-solicitor, quality remained constant.[265]

III. LESSONS FROM NONLAWYER PRACTICE

Above, we cataloged a range of evidence that gauges whether nonlawyers can competently supply some legal services. What can we learn from this exercise? Below, we highlight five lessons.

A. Nonlawyers Can Supply Legal Services with Competence and Integrity

The first obvious takeaway is that trained nonlawyers can deliver a wide range of legal services competently and professionally.[266]

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[264] *Id*. at 787.

[265] LEGAL SERVS. CONSUMER PANEL, *supra* note 141, at 2–3.

[266] Our conclusion here is on par with the conclusion by others who have similarly sifted through available evidence. *See, e.g.,* Amicus Brief of Professor Rebecca L. Sandefur in Support of Plaintiffs' Motion for a Preliminary Injunction, Upsolve v. James, No. 1:22-cv-627-PAC, at 11 (Mar. 2, 2022, S.D.N.Y.) (explaining that various attempts to measure the value of nonlawyer practice "reflect a consistent theme: nonlawyer providers can be highly effective when they are (1) trained and specialized, and (2) the issues at hand do not raise complex questions of substantive law"); Stephanie K. Davis, *Access to Justice in* A GUIDE TO FEDERAL AGENCY ADJUDICATION 229, 237 (Jeremy S. Graboyes, ed., 3d ed. 2023) ("Research suggests that, in certain circumstances, parties who are represented or assisted by a nonlawyer have an equal or better chance of succeeding than either unrepresented parties or even parties assisted by an

Having a JD may be helpful, but in many domains, it simply is not necessary. The chart below offers a summary.

Table 1: Studies that Compare Lawyer and Nonlawyer Performance (from the U.S. and the U.K.)

Author(s) and Year Published	Methodology	Take-Away[267]
Clark & Corstvet (1938)	Surveyed 412 respondents in Connecticut.	Clients were modestly more satisfied with nonlawyers (as against lawyers).
Duquette & Ramsey (1987)	Assessed child abuse proceedings in Michigan.	Performance of trained nonlawyers matched trained lawyers and surpassed untrained lawyers.
Hostetler (1988)	Assessed outcome data and conducted interviews in SSA and INS.	Lawyers notched slightly higher reversals than nonlawyers (and both outperformed pro se litigants by a wider margin). Interviewees found performance to be comparable.
Genn & Genn (1989)	Assessed outcome data, observed hearings, and conducted 735 interviews—three administrative tribunals in England and Wales.	Representation of any kind significantly improved individuals' likelihood of success. Performance comparable between lawyers and nonlawyers.
California State Bar (1990)	Surveyed 292 respondents in California.	Clients were modestly more satisfied with nonlawyers (as against lawyers).
Kritzer (1998)	Assessed administrative	In three of the four settings, no appreciable difference. In one

attorney."); Recommendation No. 86-1, 51 Fed. Reg. at 25641-25642 ("Federal agency experience and statistics indicate that qualified persons who are not lawyers generally are capable of providing effective assistance to individuals in mass justice agency proceedings."); *accord* Letter from the Office of Policy Planning, Fed. Trade Comm'n to Carl E. Testo, Counsel, Rules Comm. of the Superior Court (Conn.) at 2 (May 17, 2007) (stating that the FTC is "not aware of any evidence of consumer harm arising from [the provision of legal services by nonlawyers] that would justify foreclosing competition"); Walter Gellhorn, *Conference: Law and Lawyers in the Modern World: Afternoon Session*, 15 U. OF CINN. L. REV. 196, 208 (1941) ("It has been proved empirically that in certain matters non-lawyers have effectively and honorably served their principals.").

[267] Of course, these "take-aways" are, by their nature, somewhat coarse, losing nuance and specificity. For a more textured and granular understanding, we encourage readers to read our fuller summaries.

	proceedings in Wisconsin across four kinds of tribunals.	setting (tax appeals), lawyers more effective.
Tackett (2000)	Surveyed 146 ALJs in the SSA.	ALJs reported that lawyers were modestly more effective than nonlawyers.
Moorhead, Sherr & Paterson (2003)	Examined claims involving welfare benefits, debt, housing, and employment in England and Wales. Evaluated outcome data, engaged in peer review, deployed "model clients," and surveyed 867 clients.	Clients were modestly more satisfied with nonlawyers (as against lawyers). Furthermore, nonlawyers "got significantly better results, and their work on cases was more likely to be graded at higher levels of quality by experienced practitioners working in their field."
UK Legal Services Consumer Panel (2011)	Team of experts reviewed 101 wills prepared by mix of lawyers and nonlawyers in the UK.	No appreciable difference in quality.
Carpenter, Mark, & Shanahan (2017)	Assessed performance in the DC Office of Administrative Hearings.	Those represented by lawyers won more often than those represented by nonlawyers—but differences disappeared when nonlawyers actually appeared at hearings.
Board of Veterans' Appeals (2022)	Measured ability to secure reversals in the BVA.	Lawyers slightly more effective than nonlawyers. Both lawyers and nonlawyers more effective than unrepresented individuals.

Again and again, studies show that specially trained nonlawyers can be effective advocates. In Duquette and Ramsey's study, the nonlawyer providers who received specialized training in abuse and neglect cases performed as well as specially trained lawyers and better than lawyers without the training.[268] Many of the nonlawyer advocates in mass justice agencies that Hostetler studied received training on agency forms and rules, and she noted "little perceived difference" in the quality between the nonlawyer group and the lawyer group.[269] Kritzer concluded that trained nonlawyers can be as or more effective than lawyers,[270] while Genn and Genn also found that, when it came to quality representation, specialization and experience mattered

[268] *See supra* notes 207–210 and accompanying text.

[269] *See supra* notes 211–217 and accompanying text.

[270] *See supra* notes 225–231 and accompanying text.

most.[271] The most rigorous study to evaluate the question, by Moorhead, Sherr, and Paterson, concluded that nonlawyers were not only effective but, across a range of measures, *outperformed* lawyers—scoring higher on client satisfaction, delivering more favorable outcomes, and receiving higher quality ratings from trained solicitor reviewers.[272]

B. The Value of Specialized Training and Simplicity

Next, embedded in the studies we outline above are two specific lessons for policymakers who are rolling up their sleeves to *create* licensed paralegal programs. First, the evidence highlights the importance of specialized training.[273] For instance, when evaluating child abuse and neglect proceedings, Duquette and Ramsey found that specialized nonlawyers "performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[274] Likewise, Kritzer, studying nonlawyer representatives in administrative settings, emphasized that "the key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process."[275] Too, in Hostetler's study of nonlawyer representation before the SSA and INS, legal aid supervisors emphasized that nonlawyers could be trained to "perform virtually all functions in administrative agency proceedings," provided they received targeted instruction in agency rules, procedures, and forms.[276] In sum, across diverse domains, nonlawyers with specialized knowledge and training performed at or above the level of many of their lawyer counterparts.

A second equally important point relates to the context in which nonlawyers are active and, in particular, the importance of simplicity and informality. When federal agencies authorize nonlawyer representation, they tend to authorize that representation in relatively

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[271] *See supra* notes 249–254 and accompanying text.

[272] *See supra* notes 255–265 and accompanying text.

[273] Sandefur, *supra* note 144, at 305 ("Studies that compare lawyers to nonlawyers highlight the importance of specialized expertise over generalized legal training.").

[274] Duquette & Ramsey, *supra* note 207, at 390.

[275] Kritzer, *supra* note 144, at 101.

[276] Hostetler, *supra* note 81, at 105.

informal proceedings.[277] And, the evidence suggests that this is where nonlawyers tend to thrive. Kritzer, for instance, found that nonlawyers were especially effective in settings like unemployment compensation and Social Security appeals, where proceedings were relatively streamlined and repetitive, but were less effective in tax appeals due to their "lack of procedural expertise." There, at least some had trouble abiding by various procedural and evidentiary requirements.[278] Carpenter, Mark, and Shanahan likewise found that nonlawyers were particularly helpful when the procedures were relatively straightforward.[279] Here, more research would be useful, but it appears that, when processes are simple, nonlawyers are particularly effective. Conversely, where processes are complex and, for example, a jurisdiction's general rules of procedure and evidence are in play, lawyers are much more likely to outperform nonlawyer advocates—and, at the least, nonlawyers need intense, particularized training.[280]

C. "Head-to-Head" Lawyer v. Nonlawyer Matchups are Reductive and Rigged

A third lesson abstracts out, to address the proper comparison. The evidence we assemble suggests that, in a range of domains, trained and licensed nonlawyer advocates perform legal services on par with the services provided by lawyers. That's what Hostetler, Kritzer, Genn and Genn, and Moorhead et al., among others, found. Yet, even while

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[277] *See supra* notes 55–56. Indeed, certain agency proceedings have been designed specifically to accommodate nonlawyer providers. *See* Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 321 (1985) (emphasizing that "the system for administering [veteran disability] benefits should be managed in a sufficiently informal way that there should be no need for the employment of an attorney").

[278] Kritzer, *supra* note 144, at 108.

[279] Carpenter et al., *supra* note 239, at 1046.

[280] Sandefur, *supra* note 144, at 306. Recognizing this distinction, in England and Wales, for instance, one must possess a law license to engage in certain "reserved activities." These primarily involve "appearances in higher courts and the conduct of litigation." Hadfield, *supra* note 19, at 1278. Recall, too, that in Arizona's survey on LPs, a majority of judge and attorney respondents agreed that hearings with LPs took longer than hearings with attorneys and further that LPs could benefit from additional training on rules of procedure and evidence. ARIZ. SUP. CT., *supra* note 192, at 14, 19.

we show that nonlawyers pass this test, we also believe that this test is both rigged and unduly reductive.[281]

The test is rigged because, as we explained at the outset, the reality is that today, *lawyers are the exception, not the rule*. In three-quarters of cases, at least one side is currently muddling through, entirely without help.[282] Thus, the right test is not whether nonlawyers stack up well, as against their JD-toting counterparts; it is whether having the assistance of a trained nonlawyer is markedly better than going it alone.[283] And critically, *every study* we identified that compares pro se litigants to nonlawyer-represented litigants finds the latter fare better than the former; one is significantly better off hiring a nonlawyer than forging ahead without assistance.[284]

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[281] The test is rigged in another important way, too. Many studies compare *specialized* nonlawyers to *specialized* lawyers. Yet, given the importance of specialization (discussed above) coupled with the realities of representation, the more appropriate comparison is arguably between *specialized* nonlawyers (e.g., those who, day-in-and-day-out, help folks submit workers' compensation claims or respond to eviction notices) as against *generalist* lawyers (as lawyers, unlike many licensed paraprofessionals, may operate far outside their own areas of expertise). This is significant because there is good reason to think that specially trained nonlawyers, at least sometimes, outperform JD-toting generalists. Such an idea is consistent with common sense. *See, e.g.,* Upsolve, Inc. v. James, 604 F. Supp. 3d 97, 118 n.13 (S.D.N.Y. 2022) (observing that "there is some common-sense truth to the notion that a non-lawyer who has handled 50 debt collection matters, for example, would likely provide better representation than a patent lawyer who has never set foot in small claims court and last looked at a consumer contract issue when studying for the bar exam"); 1948 Hearing, *supra* note 68, at 66–67 (statement of Herschel A. Hollopeter, Traffic Director, Indiana State Chamber of Commerce) (similar).

[282] *See supra* notes 8–20 and accompanying text.

[283] This is a point the trial court recognized in the Upsolve case, noting that individuals, assisted by nonlawyer advocates "with limited legal training" would "logically" be better off than individuals condemned to "complete their own forms pro se, with no legal training at all." *Upsolve*, 604 F. Supp. 3d at 118 n.13; *accord* Weckstein, *supra* note 40, at 667 ("It may be laudable to require that for one's own benefit, he must seek legal services only from qualified counsel, but it is untenable to insist upon such a requirement when qualified legal counsel is not available.").

[284] *See* Hostetler, *supra* note 81, at 103–04; VA 2022 STUDY, *supra* note 248, at 49; *Walters*, 473 U.S. at 327; *cf.* GENN & GENN, *supra* note 249, at 107, 243 (documenting that representation, of any kind, significantly increased claimants' odds of success, though not directly comparing the subset of nonlawyer representatives to no representation); Hilary W. Hoynes, Nicole Maestas & Alexander Strand, *Legal Representation in Disability Claims*, NBER Working

At the same time, there is data showing that, when legal assistance is available, individuals with legal problems are more likely to address those legal problems, as opposed to letting those problems fester.[285] And, there is some evidence suggesting that, when individuals represent themselves, efficiency—not just accuracy—takes a hit: "Hearings with people who represent themselves, especially in family-

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Paper No. 29871, at 4, 11–14, 17–18 (Mar. 2022) (analyzing data on 7.4 million social security disability applications from 2010 to 2014 and finding that representation—which, in the sample, was furnished by a mix of lawyers and nonlawyers—increased the probability of an initial award by 23 percentage points, from a base rate of about 32% to 55%); *but cf*. Greiner & Pattanayak, *supra* note 145 (concerning an offer of representation).

This baseline determination is consistent with the broader literature, which persuasively shows that *lawyer*-represented individuals fare better than those who go it alone. *See, e.g.,* Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise Through Lawyers' Impact*, 80 AM. SOC. REV. 909, 915-16, 918, 921 (2015) (drawing on 18 empirical studies covering more than 18,000 adjudicated cases and concluding that having a lawyer increases the likelihood of a favorable outcome relative to proceeding pro se); David A. Hyman, Mohammad Rahmati, Bernard S. Black & Charles Silver, *Medical Malpractice Litigation and the Market for Plaintiff-Side Representation: Evidence from Illinois*, 13 J. EMPIRICAL LEGAL STUD. 603, 604, 611 (2016) (reporting in the medical-malpractice context that "[h]aving a lawyer has a large impact on both the likelihood of 'winning' (i.e., receiving a positive recovery) and the amount recovered, conditional on success"); Carroll Seron, Martin Frankel & Gregg Van Ryzin, *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment*, 35 LAW & SOC'Y REV. 419, 419, 425–26 (2001) (concluding, based on a randomized experiment, that "the provision of legal counsel produces large differences in outcomes for low-income tenants in housing court, independent of the merits of the case"); Jane Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 AM. U. J. GENDER SOC. POL'Y & L. 499, 511–12 (2003) (finding that, among a sample of 406 Baltimore women who sought intervention for domestic violence 83% of women who were represented obtained a protective order, compared to 32% of the unrepresented); *but cf.* Leandra Lederman & Warren B. Hrung, *Do Attorneys Do Their Clients Justice? An Empirical Study of Lawyers' Effects on Tax Court Litigation Outcomes*, 41 WAKE FOREST L. REV. 1235, 1239 (2006) (examining the results of Tax Court cases and finding that "attorneys obtain significantly better results in tried cases than unrepresented taxpayers do" although that, when cases were settled, the result did not hold).

[285] *See* Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 FORDHAM URB. L.J. 129, 136–38 (2010) (collecting evidence).

law cases, tend to last much longer because of the need for the court to redirect parties or work through difficulties."[286]

Meanwhile, in proceeding on the assumption that, to pass muster, the quality of legal services supplied by nonlawyers must be on par with the quality of legal services supplied by lawyers, the debate is also unduly reductive. The problem is that the debate's myopic focus on "quality," to the exclusion of other values and attributes, distorts the relevant inquiry.

Generally, when a consumer, patient, or client evaluates goods and services, the consumer, patient, or client evaluates the quality of the good and service *alongside other characteristics*. When buying even important things—like cars or infant car seats—or when seeking the services of professionals—including medical providers—we tolerate substantial quality differentiation, even when that means that some options in the marketplace are more dangerous and others are less dangerous.

Consider automobiles. The Mitsubishi Mirage sees 205 deaths per million registered vehicles, while the Mercedes-Benz E-Class sees 0.[287] But, nobody bans the Mitsubishi Mirage and, with its $18,250 price tag, many consumers quite reasonably buy it, compared to the Mercedes, which costs roughly four times as much.[288] Indeed, many consumers probably compare, in their own minds, the Mirage to the

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[286] GEORGIA REPORT, *supra* note 9, at 88; Hecht Testimony, *supra* note 10, at 2 ("The increase in *pro se* litigation not only produces results without regard to the merits of the claims presented but makes court processes less efficient."); Recommendation No. 86-1, 51 Fed. Reg. at 25642 ("[U]nassisted individuals are more likely than those who are assisted to cause a loss of agency efficiency by requiring more time, effort, and help from the agency."); *but see* JOHN M. GREACEN & PAMELA A. GAGEL, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., FAMILY LAW IN FOCUS: A RETROSPECTIVE STUDY OF COLORADO'S EARLY EXPERIMENTS WITH PROACTIVE CASE PROCESSING 17 (2013) (finding that "cases with self-represented litigants resolve more quickly than those with two attorneys").

[287] Sean Tucker, *The Deadliest and Least Deadly Cars*, KELLY BLUE BOOK, July 18, 2023 (reporting on cars with the highest and lowest driver death rates from 2017 through 2021; in addition to the Mercedes, other cars with a 0 death rate included the BMW X3, the Lexus ES, and the Nissan Pathfinder).

[288] *Compare* Eric Brandt, *2024 Mitsubishi Mirage*, KELLY BLUE BOOK (July 30, 2025), *with* Colin Ryan, *2025 Mercedes-Benz E-Class Review*, KELLY BLUE BOOK (Jan. 30, 2025).

bicycle, which is much more dangerous still (and also perfectly legal).[289]

We authorize the sale of the Mirage *and* the bicycle—and we also let patients visit anyone from a nurse practitioner to a podiatrist to a midwife to a surgeon—because there is, generally, an understanding that (1) competent adults should be able to choose for themselves among various offerings, and (2) the quality of a good or service is appropriately balanced against other variables, such as cost, comfort, and convenience. There is no reason to depart from those general understandings here.[290]

D. Who Should Bear the Burden of Proof?

Fourth, we have painstakingly compiled and analyzed available evidence concerning the quality of legal services supplied by nonlawyers because various bar leaders have suggested that this is the evidence they want to see. The President of the Florida Bar has declared, for instance, that the rules that govern the legal profession should be changed if and only if reformers can show, with "clear and compelling empirical data" that the reforms they champion would be salutary with "little or no risk to the public."[291] And, the Bar President

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[289] *See* Laurie F. Beck, Ann M. Dellinger & Mary E. O'Neil, *Motor Vehicle Crash Injury Rates by Mode of Travel, United States: Using Exposure-Based Methods to Quantify Differences*, 166 AM. J. EPIDEMIOLOGY 212, 213–14 (2007) (reporting that U.S. bicyclists face a fatality rate of 21.0 deaths per 100 million person-trips—where person-trip is defined as "a one-way journey between two points"—while car occupants face a rate of 9.2 per 100 million person-trips).

[290] *See* Relevant here: In the UK, one study finds that, as compared to solicitors, nonlawyers who write wills tend to be cheaper and more convenient. *See* LEGAL SERVS. CONSUMER PANEL, *supra* note 265, at 3.

Indeed, attorneys are not immune to this balancing, and prospective clients frequently choose among various providers. Consider that Neal Katyal of Hogan Lovells is an exceptionally good lawyer, and he is expensive; he clocks in at $2,465 per hour. Meanwhile, some "inexperienced" lawyers charge as little as "$300 per hour." Aaron Hall, *Which Lawyers Have the Highest Rates—and How Much Do They Charge?*, July 2, 2025, https://aaronhall.com/which-lawyers-have-the-highest-rates-how-much-do-they-charge/. We assume that clients seeking legal services can decide for themselves whose services to seek. We don't preclude clients from seeking the services of inexperienced lawyers just because another higher-quality (and more expensive) lawyer might be available.

[291] Tanner Letter, *supra* note 39.

has staked his opposition to various reforms because of the asserted "absence of such data."[292] In his view, then, reformers bear the burden of proof, and it is an elevated burden (of "clear and compelling" evidence), to boot.

Unanalyzed is a deeper question. Who *ought* to bear the burden of proving what works or doesn't? Should the burden of proof always and inevitably rest on those who support reform? Or, particularly considering the "rotten roots" of modern UPL restrictions, coupled with the practical difficulty of empirically demonstrating the value of something (lay representation) that is, in most parts of the country, still criminalized, should the burden perhaps fall on those who support a status quo that is so extravagantly failing to serve so many low- and middle-income Americans?[293]

E. The Value of Evidence

Fifth and finally, the above exercise, which sifts *through* evidence, points to the value *of* evidence. In particular, we offer a plea that it is high time to move beyond untested assumptions and toward empirically informed decision-making.[294] The legal monopoly was created almost a century ago based on the bare assumption that nonlawyers would harm clients.[295] Throughout the 1940s, 1950s, and 1960s, the bar tried doggedly to fortify that monopoly, claiming that, without reform, nonlawyers would harm clients.[296] Now, some members of the bar oppose efforts to relax the professional monopoly because the relaxation of the monopoly will, they claim, assertedly harm clients.[297]

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[292] *Id*.

[293] Engstrom & Stone, *supra* note 18, at 188, 191–98.

[294] Chambliss, *supra* note 51, at 299 ("Historically, courts have required little evidence in support of lawyers' monopoly claims."); Green, *supra* note 27, at 1273 (explaining that, when it comes to the "regulation of law practice," courts have tended to "eschew the collection of data and experimentation, relying instead on anecdotes, impressions, received wisdom, and analogies").

[295] *See supra* note 40 (collecting sources).

[296] *See supra* notes 69–73 (collecting sources); *see also, e.g.,* Thomas J. Boodell, *Admission to Practice Before Administrative Agencies*, 20 UNAUTHORIZED PRAC. NEWS 3, 11 (June 1954) (advocating the restriction of lay practice before administrative agencies because, inter alia, "[a]ny form of short cutting legal education . . . is not in the public interest").

[297] *See supra* notes 1–7, 33–41.

In all this time, the bar has had plenty of time to show that nonlawyers, in fact, harm clients. It hasn't.[298] Over this span, judges and policymakers have repeatedly *asked* the bar for evidence that nonlawyer representation harms clients.[299] Again and again, the bar has failed to bring the receipts. The profession may be excused for not having the tools and frameworks for rigorous empirical inquiry at the turn of the 20th century. But an adherence to unfounded assumptions—that are testable today—is no longer sustainable.[300]

CONCLUSION

Sixty years ago, in the midst of President Johnson's War on Poverty, Attorney General Nicholas Katzenbach gave a speech on access to justice, with a rousing call to action. "There has been long and devoted service to the legal problems of the poor by legal aid societies and public defenders," he observed, "[b]ut, without disrespect to this important work, we cannot translate our new concern into successful action simply by providing more of the same."[301] Instead, Katzenbach

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[298] *See* Christensen, *supra* note 52, at 203 (noting that "there is comparatively little in the history of unauthorized practice, either in the literature or in the cases, by way of hard evidence of substantial actual injury to the public through the activities of unauthorized practitioners."). This absence of evidence did not keep the New York Attorney General from recently doubling down on the specious claim that "no measure short of prohibition would adequately protect [New Yorkers] from the dangers posed by . . . unlicensed and unregulated law practice." Brief for Appellant at 59, 70–71, Upsolve, Inc. v. James, No. 22-1345 (2d Cir. Oct. 5, 2022). Many opponents of nonlawyer providers are quick to mention *notarios* in illustrating the dangers of nonlawyer practice. But *notarios* are unlicensed and unregulated, which is the precise opposite of the nonlawyer legal service providers we are discussing and endorsing here. *See also supra* note 36.

[299] *See, e.g.,* 1948 Hearing, *supra* note 68, at 120 (statement of Mathias F. Correa, Counsel, N.Y. State Soc'y of Certified Public Accountants) (pointing out that, even as the ABA sought to strip nonlawyers of the right to practice before administrative agencies, it failed to marshal even a shred of evidence of harm from existing nonlawyer practice).

[300] This is particularly so given the evidence showing that UPL complaints are typically lodged by aggrieved lawyers, not aggrieved clients. *See* Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement*, 82 FORDHAM L. REV. 2587, 1591–93 (2014).

[301] Nicholas B. Katzenbach, Acting Att'y Gen., Dep't of Just., Address to the Conference on Extension of Legal Services to the Poor 3 (Nov. 12, 1964).

argued, it was time to expand the frame: "Not every injury requires a surgeon; not every injustice requires an attorney."[302] "We need what is, in effect, a new profession—a profession . . . made up of human beings from all professions, committed to helping others who are in trouble. That job is too big—and, I would add, too important—to be left only to lawyers."[303]

For a very long time, Katzenbach's idea has been shelved, for fear that relaxing UPL restrictions to permit representation by those "unschooled" in the law would backfire. Nonlawyers, many have long insisted, would prey upon the unsuspecting, hurting the very people they were hired to help.

Here, we've tackled that persistent fear head-on. After canvassing available research assessing the quality of legal services furnished by nonlawyers against that furnished by lawyers we find that, just as Attorney General Katzenbach suspected, while lawyers have cornered the market on the provision of legal services, they have no monopoly on legal know-how. The need is too vast to be met by lawyers alone. The consequences of insisting otherwise are measured not in abstractions or hypotheticals, but in evictions, lost benefits, foreclosures, and wage garnishments. It is past time to drop the fiction that only lawyers can help and to welcome in those who are already proving otherwise.

[302] *Id*. at 5.

[303] *Id*.