

Work Group on the Regulatory Structure for Legal Services

Statement of Purpose

Four billion people live “outside of the rule of law—with little access to basic legal tools.”¹ This access-to-justice crisis is not unique to third-world countries: according to the World Justice Project, the United States ranks 94th out of 113 countries when it comes to the accessibility and affordability of our civil justice system.

The Utah courts have been in the vanguard of initiatives geared toward solving this problem. The courts have relatively recently established state-wide pro bono efforts, moved to systematize court-approved forms and make them easily accessible online to all, established a new legal profession in Licensed Paralegal Practitioners, and piloted an online dispute resolution model for small claims court. Each of these initiatives is an important step along the path of narrowing the access-to-justice gap. But the most promising initiative involves profoundly reimagining the way the law is regulated in order to harness the power of entrepreneurship, capital, and machine learning in the legal arena.

In this regard, in late 2018, the Utah Supreme Court, at the request of the Utah State Bar, charged John Lund (past President of the Bar) and Justice Deno Himonas with organizing a work group to study and make recommendations to the Court about optimizing the regulatory structure for legal services in the Age of Disruption in a manner that fosters innovation and promotes other market forces to increase the access to and affordability of legal services. With this objective in mind, members of the Utah courts and the State Bar, along with outside experts, have begun to envisage and outline what a new regulatory structure might look like. This vision involves examining, among other things, (1) loosening restrictions on lawyer advertising, solicitation, and fee arrangements, including referrals and fee sharing; (2) providing for broad-based investment and participation in business models that provide legal services to the public, including non-lawyer investment and ownership of these entities; and (3) creating a regulatory body under the auspices of the Utah Supreme Court that would develop and implement a risk-based, empirically-grounded regulatory process for legal services. This body would

¹ Hadfield, G.K. (2017) *Rules for a Flat World*, p. 281, Oxford University Press

also, potentially, solicit non-traditional sources of legal services including non-lawyers, and allow them to test innovative legal service models and delivery systems through the use of a “regulatory sandbox” approach, which permits innovation to happen in designated areas and to address risk and generate data to inform the regulatory process.

Bridging the access-to-justice gap is no easy undertaking: it requires multi-dimensional vision, strong leadership, and perseverance. It also requires timely action. Knowing this, the work group intends to complete its work and provide a written report with specific recommendations to the Supreme Court by June 30, 2019.