



AMERICAN **BAR** ASSOCIATION

Center for Innovation

INNOVATION TRENDS REPORT 2022



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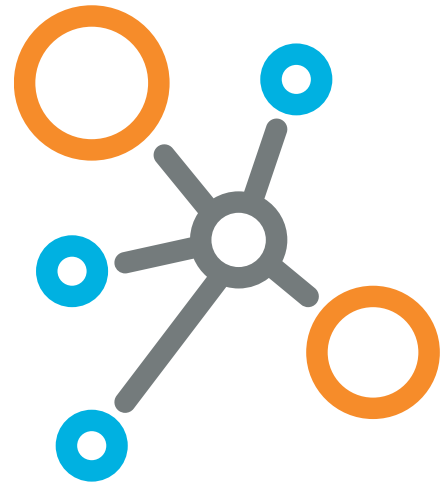
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The project is a product of the 2021-2022 Center for Innovation Governing Council:

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FORWARD

The ABA Center for Innovation is a place for collaborative and creative thinking about the transformation of the U.S. Justice System. We strive to improve the legal services industry through innovation, education, and collaboration.

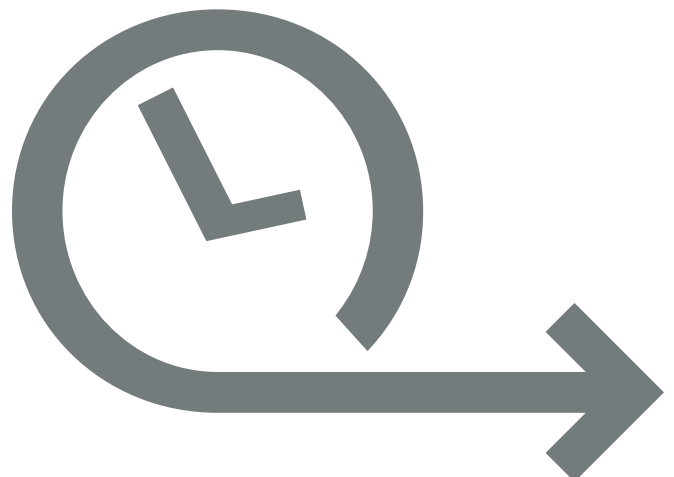


This inaugural issue of the Innovation Trends Report explores innovation in the legal services industry by focusing on three key areas: Internal ABA Innovation, Advances in Legal Technology, and Regulatory Innovation. Rocket Lawyer's Experience in the Utah Regulatory Sandbox is included to showcase data derived from experimentation in the legal services industry.

LOOKING AHEAD

Our committee plans to present examples of legal innovation on an annual basis. We hope you enjoy this educational resource and we look forward to producing many more.

-Tom Rombach, Chair of the
Innovation Trends Report



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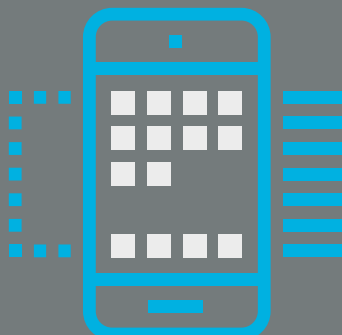
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INTERNAL ABA INNOVATION

GUIDE

The American Bar Association continues to develop new and remarkable ways to guide the legal profession. Over the last few years, multiple ABA entities have invested time, resources, and energy into helping build a robust library of data-driven projects and reports that are shaping the future of the American justice system.

The Center for Innovation's Governing Council and Staff spoke to ABA members and staff to highlight some of the most innovative and forward-thinking efforts. The following pages highlight the outstanding work by these entities, utilizing a combination of audio and visual content for you to explore.

Each section includes a highlight of these interviews and an audio pairing for you to enjoy by scanning the QR code on the page or manually typing in the link to listen in. As you can hear, we had a great time talking about these passion projects. We believe these cutting-edge projects are authentic showcases of innovators, ensuring that the ABA is a leader in shaping the profession.

QR CODE EXAMPLE



SCAN ME



POLICE CONSORTIUM

JUSTICE SYSTEM METRICS

MODEL DIVERSITY SURVEY

PROFESSIONAL IDENTITY FORMATION

POLICE CONSORTIUM

Thomas C. Rombach interviewed Jessalyn Walker, Director of ABA Legal Education Police Consortium, Dean Marc L Miller, and Dean Madeleine Landrieu for an interview about the Police Consortium of the ABA Criminal Justice Section. This vibrant conversation includes highlights about the ongoing data collection and next steps for the project in the next quarter.



https://players.brightcove.net/1866680404001/mgEOLY1p8_default/index.html?videoId=6310192675112

“We're a consortium of law schools that came together in the aftermath of... George Floyd's murder and the racial reckoning that was happening in America following that. And it was really a response to a pretty simple question, with complicated answers, but what is the role of law schools as we look for and seek out social justice and as we reimagine public safety in America. - Dean Landrieu”



QUICK LOOK:

The Consortium aims to contribute to the national effort examining and addressing legal issues in policing and public safety, including conduct, oversight, and the evolving nature of police work.

As of July 2022, there are 60 published participating accredited ABA law schools.

To learn more about the project or to connect with the work go to https://www.americanbar.org/groups/criminal_justice/police_practices/

PROFESSIONAL IDENTITY FORMATION

Zachariah DeMeola and Assistant Dean Jordana Confino discuss with Joseph Gartner, Director of the Center for Innovation, the addition of Professional Identity Formation as required curriculum in the ABA accreditation standards for law schools. Assistant Dean Confino goes into the definition of professional identity formation and the practical application academically and professionally.



https://players.brightcove.net/1866680404001/mgEOLY1p8_default/index.html?videoId=6310691096112



WHAT IS PIF?

Professional Identity Formation ("PIF") is distinct from professionalism and emphasizes practical skills, professional competencies, and self-reflective learning. Fundamental to PIF is the individual's own determination of how professional abilities and standards align with personal strengths, values, and interests, allowing each person to form a unique professional identity. Competencies learned in PIF coursework include resilience, adaptability, and confidence in one's abilities.

They show up in law school so laser focused on how to become who they think that they should be that they never stop to contemplate who they really are or who they authentically want to be. -Dean Confino

The science backs it up.
...We're empowering the profession. -Zack DeMeola



To learn more about the work behind the
Section of Legal Education and Admissions to the Bar go to
https://www.americanbar.org/groups/legal_education/

MODEL DIVERSITY SURVEY

Michelle Behnke, Chair of the Commission on Racial and Ethnic Diversity in the Profession, takes time to share her insights with Elise Harmening, on the basics of the Model Diversity Survey (MDS) along with the innovative techniques the team uses to garner support for their data collection. The Commission has collected data since 2016 and published reports for 2020 and 2021.



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**DATA-
DRIVEN
DECISION-
MAKING**

“ Under the Diversity 360 Commission, ... they were looking at concrete ways we could try to increase diversity within the profession.

- Michelle Behnke ”



WORKING TOWARD DATA-DRIVEN CHANGE

The MDS found that while women are slightly over half of the population they are only 35% of attorneys.



.....
When discussing the success of pipeline efforts that help diverse students enter law school, the Commission asked themselves:

How are [diverse new associates] faring when they come into firms, are they moving through the leadership...are they making it all the way to equity partner?
.....

To learn more about the work behind the Model Diversity Survey, go to <https://www.americanbar.org/groups/diversity/DiversityCommission/model-diversity-survey/>

JUSTICE SYSTEM METRICS

Joey Gartner, Director of the Center for Innovation, discusses the Justice System Metrics with Amanda Brown, Executive Director of Lagniappe Law Lab and Data Tools working group member of the Center for Innovation. Amanda was a key architect behind the design and functionality of the website.



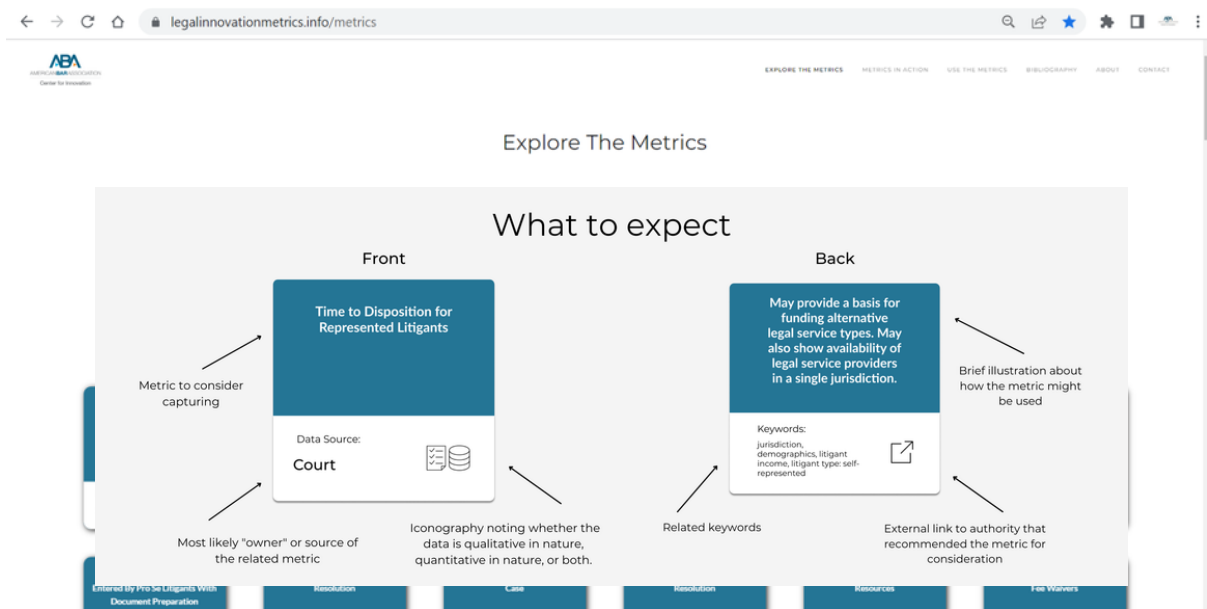
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IN SHORT...

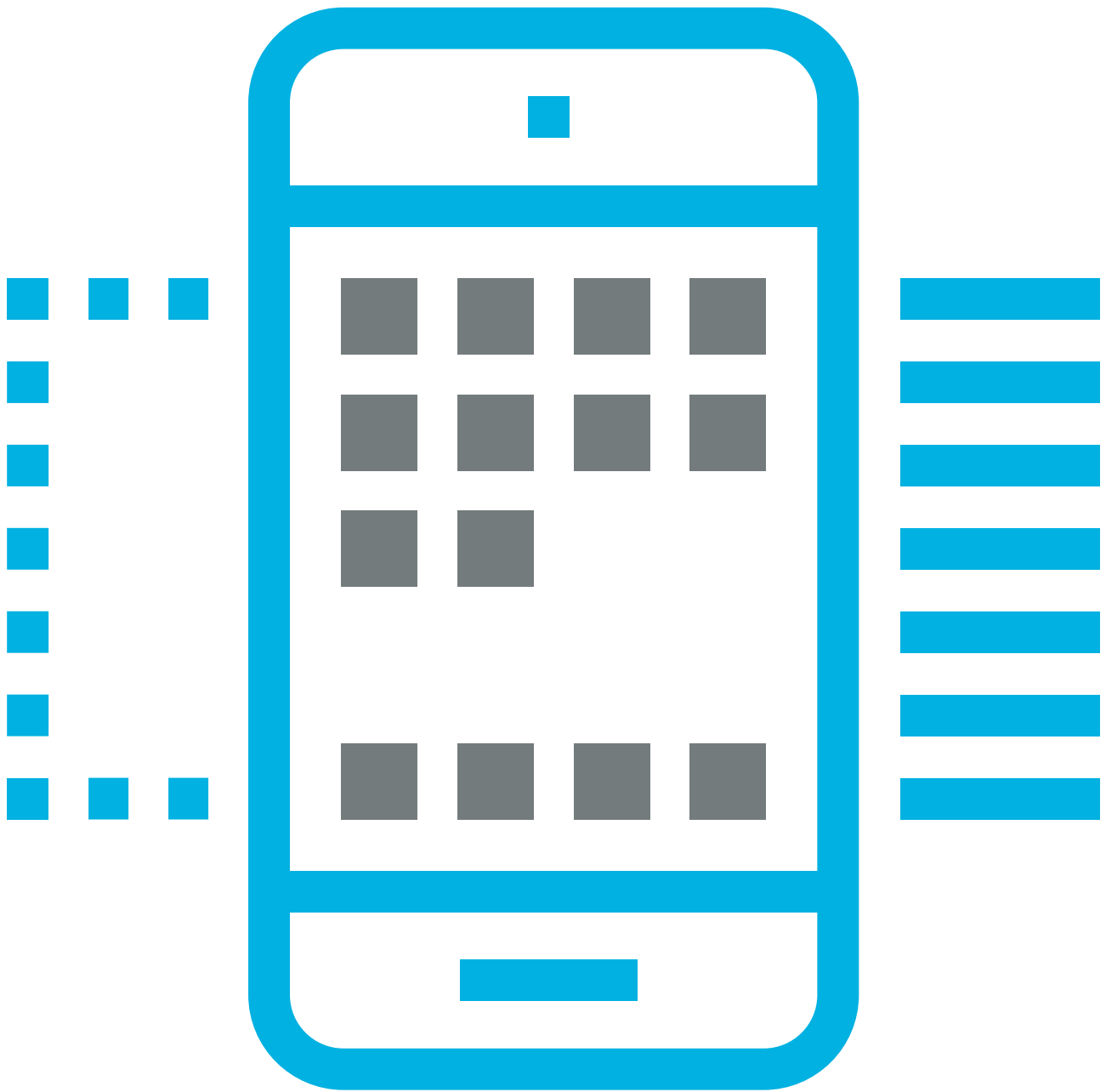
The Center for Innovation's Justice System Metrics is a website and tool designed to encourage data-driven decision makings for lawyers, courts, bar associations, and other critical stakeholders in the legal system.



I think it should start at law school honestly...if we're really going to make meaningful change in this arena...adding resources for using the metrics as well... The focus on real quantitative data and understanding is there...but there may be some hesitation or lack of awareness about how we go about doing that. -Amanda Brown



To learn more about the Justice System Metrics and to explore this tool, go to <https://www.legalinnovationmetrics.info/>



ADVANCES IN LEGAL TECHNOLOGY

AN EXPLAINER: WHAT IS AN API AND LEGAL PLATFORM AND WHY DO THEY MATTER?

BY: JOSEPH RACZYNSKI

We live in a world where thousands of emerging companies exist around the globe all with their own code bases, built on a multitude of computer languages, and all vying to gain the attention of big and small law firms across both the business and practice of law. Many of these start-ups, competing against a host of known players in the legal space, have flooded the market like a new gold rush. How does a law firm deal with a enormous variety of applications, installations, compliance requirements, and security issues of each one of these apps?

The question of how the industry integrates all these different companies and their applications to work together has introduced a tsunami of change within the legal industry. Several years ago, there were a few hundred API and Legal Platform start-ups. Today, there are a few thousand. The switch is currently being thrown, generating new and burgeoning solutions, but an understanding of this trend first requires an understanding of the concepts behind APIs and Platforms [1].

WHAT IS A PLATFORM?

Platforms have existed for ages and in many forms. Simply put, they create an ecosystem or environment that allow people and business to participate in a collective endeavor if they abide by rules and meet certain standards. Ultimately, this confluence creates a network effect for the community. Apple's App Store is a good example. Apple created a platform where anyone who uses a standard code set could program their app and upload it to the store for purchase. Before the app is available in the App Store, it must meet Apple's many requirements, governing such things as as safety, performance, design, and legal commitments, and specific requirements are often granular. For instance, an icon can only be a certain size (120x120 pixels) and Apple permits only a 4,000-character limit for the app description. Google's Play Store works similarly. Fundamentally, these types of platforms offer the consumer a secure, friendly, consistent, and reliable experience. Apple (or Google), the developer, and the consumer know what to expect—the platform dictates the rules and the consumer has fair and reasonable expectations of their interaction when browsing, buying, and downloading an app.

[1] For additional background surrounding the importance of APIs and Legal Platforms, see Raczynski, Joseph, director. Presentation: Legal Platforms, APIs, and the REvolution of Whizzbang LegalTech, YouTube, 11 Jan. 2022, <https://www.youtube.com/watch?v=cQJpbDasWZs&feature=youtu.be>. Accessed 20 July 2022. 12 of 47



SIX COMPONENTS OF A PLATFORM

Despite the example above, the platform concept is not limited only to software or services. China is using a platform model to build towns—complete towns—years in advance of people moving into them. They are establishing roads, electrical, water and sewage lines, and every other infrastructural component a municipality might need. With preexisting infrastructure and municipal planning designed as a platform, building an office building alongside one of the roads merely requires erecting the edifice and plugging it into the platform.

INTEROPERABILITY

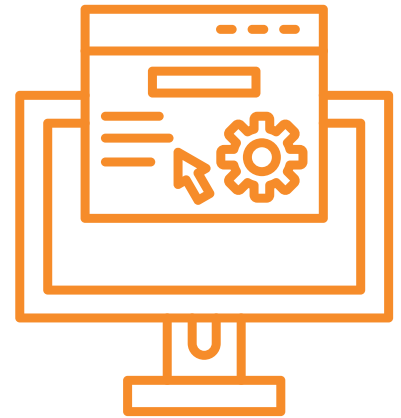
One of the major benefits of a platform is interoperability. The concept: tools or apps can interact on the platform by exchanging information or leveraging other software, services, or even hardware. A real-life example may be (if I granted rights), my phone bank app interacting with my phone's camera to snap a picture of a check I want to deposit. My grocery app can interact with my GPS alerting me to a 50% off deal on organic Ethiopian coffee as I pass the store. Permissioned information sharing among interconnected applications creates efficiency and workflow, which as we will describe later, matters in the legal industry.

HISTORY OF LEGAL PLATFORMS

In 2018 the Legal Platform took flight. The concept (or perhaps the term) was not new to most industries, but it was novel to legal.

The initial focus of the first platform was a concept in the software and application world called “containerization,” which can essentially be described as standardization with an emphasis on security. Law firms had been hit especially hard over the preceding five years by hackers intent on exploiting data security weaknesses to gain access to intellectual property or other confidential or proprietary information behind law firm firewalls.

The explosion of new applications available to firms, based on a myriad of different codebases, further complicated security risks. A relatively basic example illustrates how complicated the process gets. When a new vendor plug-in for Microsoft Word is purchased by a firm, IT must test that plugin to confirm whether: 1) it works on their version of Word; 2) it will interfere with the likely dozens of other plugins already imbedded in Word; and 3) it interferes with any other applications at the firm. This is a massive pain point and cost for organizations. Some firms have a six to twelve month window to rollout a single plugin—a delay resulting primarily from necessary testing.

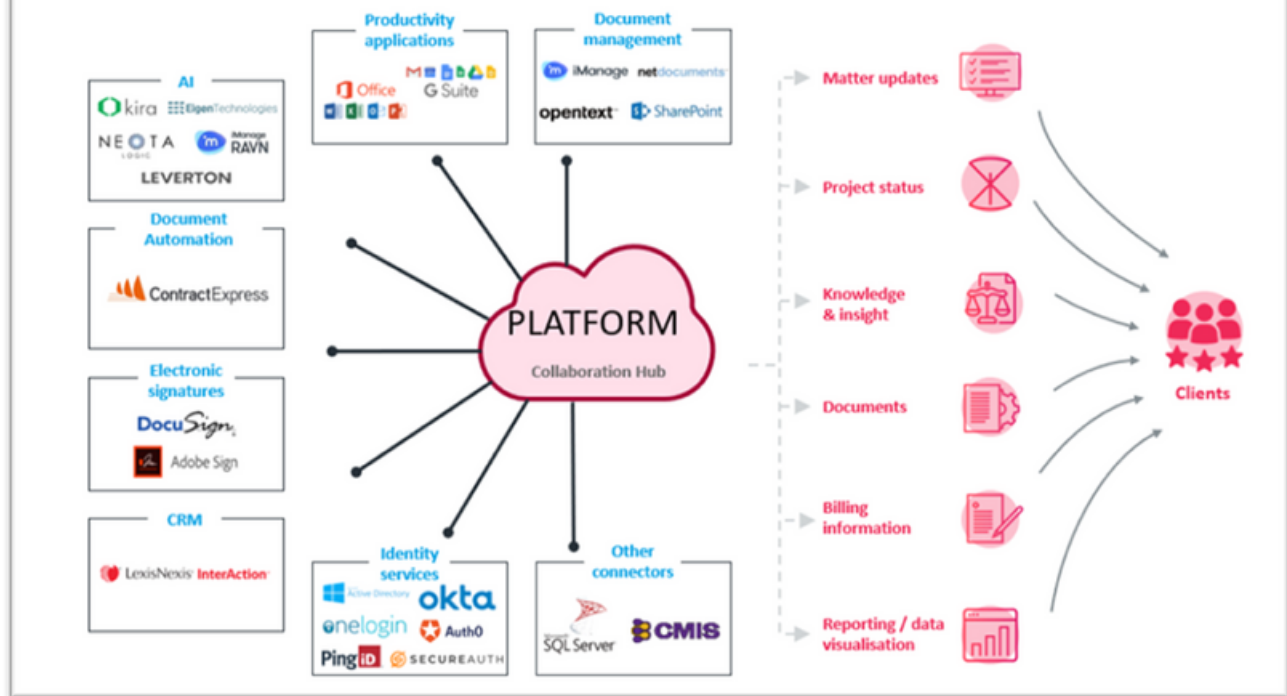


THE PERFECT PLATFORM

Enter Legal Platforms. The surprising twist that developed in the legal industry, is a play to be inclusive of all competitors on a single instance. In this world of platforms, walled gardens can exist, but fully, truly open platforms are even more powerful. When organizations build a space where everyone can play, it tears down borders and empowers customers with greater choice, access, and ability. Essentially all players, i.e., companies from across the legal technology landscape, can put their applications on the platform, even the competitors of those that create the Legal Platform. The perfect platform has no walls.

The graphic below shows that once the legal platform is leveraged, tools can be integrated based on the inclination of a given organization. While most law firms tend to be Microsoft shops, there are a few global consulting agencies (e.g., the Big 4 accounting firms) using the G-Suite by Google. In this new realm, all options are viable and permissible, allowing each organization to choose its own adventure or mixture of products and services to best serve its clients or customers.

Integrating the Legal Platform



HYPOTHETICAL LEGAL PLATFORM

As firms seek better solutions, some organizations across the legal landscape are uniquely positioned to not only create a platform, but to have (at least in theory) hundreds of legal applications play on top of the platform from its inception. While the legal platform in its relative infancy, there are currently four organizations competing in this space.

THE PLATFORM EXPERIENCE

The user logs into their computer in the morning using their Active Directory (AD) credentials, such as normal Windows login information. Once verified, they land on a customized page. The page knows the user professionally—perhaps as an IP litigation partner, working on five cases for three clients. Based on that information, the user would have access to a bevy of relevant resources, which might include how many hours the user has billed, current information about the user's clients, the latest docket filings, and a dashboard view into all of the ongoing engaged matters from the user's associates. What happens when this litigation partner needs an app to review some new discovery that just came to light? She can go to the Legal Platform App Store, see which eDiscovery applications have been approved and vetted by the firm, and immediately download it for use. The dashboard is integrating activity streams, teams, searches, documents, billing dashboards, and the interconnectivity of applications that can create workflow and enhance productivity and efficiency, all in a secure cloud based platform.

API - THE CARDIOVASCULAR SYSTEM OF THE PLATFORM

Within the platform environment, interoperability flourishes – pushing early adopters and innovators to think boldly about workflow and connectivity. A critical core component that enables a successful platform to help lawyers be more efficient are Application Programming Interfaces (APIs). API services allow applications to call upon another computer server to retrieve information (i.e., ask and you shall receive).



LEGAL PLATFORM - INTERCONNECTED

For example, when someone looks at their phone for the temperature outside and in an instant 72 degrees displays on the phone screen the phone's weather app, a container working on the phone's platform or operating system, made a request called a "post" asking for the temperature. It sent that request out and then it listened for a response called the "get." It received some small snippets of computer code in a format that the app could understand, then displayed it on the phone.

How Does An API Work?

Programmer writes code.

1) **Post** (Send Request) to server:

api.openweathermap.org/data/2.5/weather?q=Moscow

2) **Get** (Return information) from server

```
{  
  "coord": {"mos": -0.13, "lat": 51.51},  
  "weather": [{"id": 300, "main": "Clear", "description": "light intensity clear", "icon": "09d"}],  
  "base": "stations",  
  "main": {"temp": 9, "pressure": 28, "humidity": 81, "temp_min": 4, "temp_max": 16},  
  "visibility": 10000, "wind": {"speed": 4.1, "deg": 80}, "clouds": {"all": 90},  
  "dt": 1485789600, "sys": {"type": 1, "id": 5091, "message": 0.0103},  
  "country": "GB", "sunrise": 1485762037, "sunset": 1485794875},  
  "id": 2643743, "name": "Moscow", "cod": 200}  
}
```

HOW AN API WORKS. THE APP SEARCHES VIA A 'POST' AND 'GETS' DATA BACK FROM A REMOTE SERVER TO DISPLAY

Increasingly, we are seeing the legal community open large repositories of data to facilitate the interaction of applications on the platform. The legal industry has Know-How products that utilize APIs for searching remote content and for ingesting content into a firm repository. The latter, a data API, permits the legal know-how to be searchable using metadata. APIs facilitate efficiency across the platform. For example, a firm could leverage a universal search to find answers from remote data as well as from their own internal repositories of information. Apps can connect with other apps passing information and ushering in the ability for developers to build possibilities limited only by imagination. No longer is software or data siloed, forcing people to swivel back-and-forth as the only path to solve problems and find answers.

The next iterative and logical shift within LegalTech is surfacing. The legal platform, an outgrowth of an expanding tech infusion from start-ups around the globe, is being built today. At the same time, clients are pushing for legal automation, which can be an innate part to a platform. Automation baked into a platform, enabled by connectivity, and buoyed by APIs, is a potent mixture. The interoperability of applications and data, bolstered by the ability for these platforms to operate on a containerized security mechanism, is paramount going forward. Behind all of this is the user experience. Will the platform enable users, lawyers, paralegals, firm administrators, and technologists to have an easy intuitive experience? Furthermore, can those entities interact with applications with ease, just like we experience on the Apple App Store or Google Play? The promise is there, and like the stars, they are finally aligning.



**A LEGALTECH BOOM, AUTOMATION EXPLOSION, DESIRE FOR INTEROPERABILITY,
SECURED PUSHES THE LEGAL PLATFORM FORWARD**

THE METAVERSE IS HERE... IS LEGAL PREPARED?

BY: JOSEPH RACZYNSKI

Before the iPhone was launched 14 years ago, the myriad of things people could accomplish by simply touching a piece of glass-faced, hand-held technology was unimaginable. It would have been a leap of faith back then to believe where we are now. The Metaverse is that next leap.

The Metaverse is everywhere. News, articles, and podcasts are all obsessed with the topic. Over the next 18 months, following an era of Zoom and Teams virtual meetings on laptops and mobile devices, Apple will be releasing the first mixed or virtual reality headset, allowing for people to interact virtually. Initially the focus will be on new Zoom-like meetings with far more immersive business engagements, but then it gets more profound. And the eventual legal implications are potentially enormous.

A DEEP DIVE

The Metaverse is a world resembling our physical one, but is completely virtual, immersive, colorful, and all-encompassing—with land, rivers, houses, farms, people, animals, cities, stores, businesses, concerts, and everything else contained in our physical world, including lawyers. Sauntering down a bustling city street is as easy as walking on a moon that orbits an earthlike place. Platforms with full replication of our physical world are being built to be experienced through a wearable device, all in an effort to create this Metaverse.

WHY NOW?

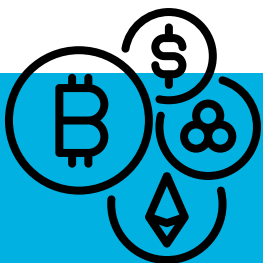
The Metaverse, or Web3, is developing now, but many other innovations stitch together to create the fabric of the Metaverse. One of the most important is blockchain, an immutable database to store information. Blockchains was made popular by cryptocurrencies because it enabled the decentralized transfer of asset value virtually and reliably. The tokenization of assets (including currency) is a seminal concept and means that anything physical, or more important in this instance, digital, can be verified and has authority via code on an immutable ledger.

Assets, living in smart contracts on the blockchain represent all manner of property, including homes, offices, land, and even the designer clothing — all legally represented by deeds, contracts, and leases—all of which have been tokenized. Tokenization means you can buy digital land, homes, and other objects on a platform like OpenSea [2] to prove you own it. That value creates a network effect, enabling interactions within an ecosystem, and therefore a new Metaverse (world) is born.

Indeed, OpenSea is just one of several marketplaces where individuals can buy the future of asset ownership in the Metaverse. The latest manifestation of this authenticated representation of ownership are NFTs (Non-Fungible Tokens), and their popularity is the slippery slope of the Metaverse. Initially, NFTs centered around people buying digital art. In building out the Metaverse, art will be displayed on the walls of homes. Asset ownership, both digitally and physically, could be ported over to an NFT on blockchains. All these critical pieces are then layered on top of a platform of animation, which is experienced through a headset. It is the asset tokenization that makes this paradigm shift most pivotal. Transactional attorneys should beware, and litigators should feel their eyes widening at the possibilities ahead.

Asset tokenization is also the basis for virtual spaces being developed as cities in which you can buy almost anything. Virtual land may be necessary to build a house, which can then be filled with pieces of art (via NFT), and stocked with outfits and shoes that are verifiable as Ralph Lauren or Nike. Virtual concerts require a ticket (another NFT), and the subsequent music available for purchase is also digitally saved and copyright enabled. Again, all of this is purchased from companies with underlying NFT ownership.

These digital worlds will may very well be our future in the next decade, and a substantial amount of time will be spent inside these worlds.

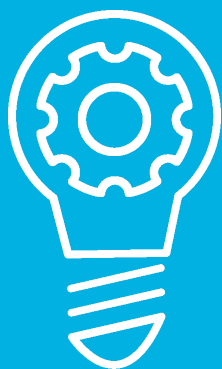
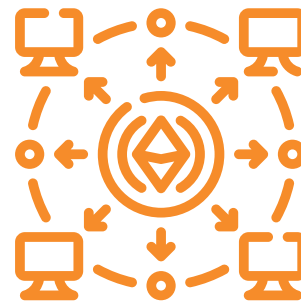


It can be a terrifying prospect to many, but skeptics should note that OpenSea processed transactions of more than \$3.3 billion in a recent month—just the beginning.

In the Metaverse, people will interact, transact, own assets, have relationships, build things and companies, create intellectual property (IP), have copyright issues, and advertise. Further, crimes may happen, insurance likely will be developed, and a massive host of other IRL (In Real Life) concepts that now all now require physical dimensions will evolve, all of which will require professional legal advice and assistance.

WHAT'S NEXT

As we move closer to the Metaverse horizon, other developments that may enrich the Metaverse experience are popping up around us. For instance, DAOs (Decentralized Autonomous Organizations) are entities, likely businesses, that have been built by humans, but once code for the DAO has been written it acts as the law and runs the business autonomously. Importantly, these DAOs will proliferate both inside and outside of the Metaverse. They are already showing some great success. One decentralized finance (DeFi) DAO supports \$25 billion on secure distributed ledgers right now.



The implications of the Metaverse are enormous not only for the legal community, but for many others—the regulatory community is just one other example. Over the course of the next several years, the Metaverse and all its implications will move from the fringe to a more important arena for lawyers to contemplate and eventually address. Now is time for lawyers to understand what is coming and to apply their critical thinking and legal intellect to get ahead of these major challenges.

THE DATA EXPLOSION AND ARTIFICIAL INTELLIGENCE IN LEGAL

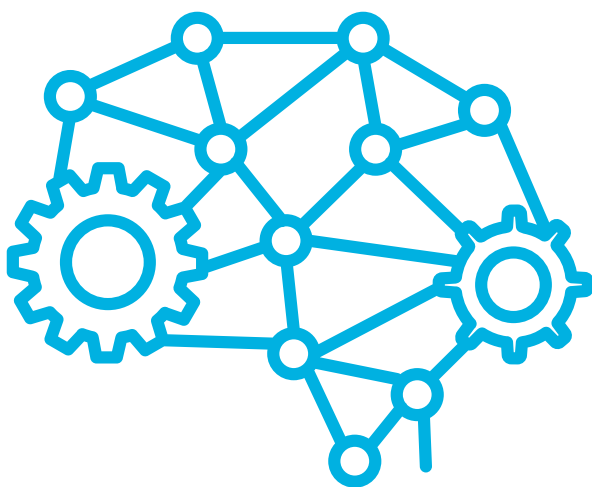
BY: JOSEPH RACZYNSKI

In 1996, Artificial Intelligence (AI) truly caught the eye of popular culture when grand master chess player Gary Kasparov lost to IBM's Deep Blue. This was so monumental precisely because AI defeated the best mind a very complex game, steeped in tradition and strategy, had to offer. Since then, various industries have embraced AI at different paces. The legal industry is one of the last jump on board, but today it is rapidly adopting various components of AI.

SO WHAT IS AI

Artificial Intelligence, at its most basic, is simply some computer code (algorithm) that offers an “if then” statement applied to data. It could also be described as rule-based system with logic-based reasoning. Machine Learning is a term used far more frequently these days under the umbrella of AI. Machine learning is the use and development of computer systems that are able to learn and adapt through algorithms and statistical models without following explicit instructions. Under its auspices, there are several areas in which machine learning interfaces with LegalTech, including: Information Retrieval, like searching legal precedent; Information Extraction (metadata) pulling data about a document, e.g., trust agreement verses a lease document; and Sentiment Analysis, such as feeds of information about a supreme court decision that were seen by certain groups as positive or negative.

Two key aspects of AI are Supervised and Unsupervised Learning. Unsupervised Learning means that an algorithm culls through huge amounts of data and offers insights into trends or threads of information with commonalities for further (human) analysis. This is most effective with huge volumes of information, e.g., a million documents or more. Supervised Machine Learning is similar, but human involvement includes refining the initial computer AI response, guiding the machine to other paths based on its initial response.



In addition, **Deep Learning**, or neural networks, are at the cutting edge of the spectrum for the most complicated and robust AI. Deep learning is a type of machine learning based on artificial neural networks that attempt to simulate the behavior of the human brain allowing “learning” from large amounts of data in which multiple layers of processing extract progressively higher level features from data. These systems were traditionally limited to use by large tech and enterprise organizations, such as Apple, Google, and Meta, but are now being used by smaller organizations too. Typically, many of processes and their data are located in the cloud. All of these have become more popular as the cost for data storage and processors have dropped over the last decade.

WHY AI IS IMPERATIVE NOW?



**90% OF DATA HUMANS
HAVE AMASSED HAS BEEN
COLLECTED IN THE PAST
TWO YEARS**

We are currently living in the hockey stick portion of explosive data growth. In the past two years, 90% of data humans have amassed has been collected. According to IBM, this data creation is gathering speed exponentially, allowing 2.5 billion gigabytes of new data to be generated every day, the majority of which is unstructured. Simply stated, the numbers are massive, and the unorganized nature of data impacts all businesses, including law firms and legal departments.

True human expertise is at a crossroads. No one person can possibly absorb the vast quantity of data that is being produced in various disciplines. Traditionally in the eDiscovery space, firms hired first year lawyers out of law school to review and classify thousands of documents for a case. In many instances, data has ballooned well beyond what a team of attorneys can handle. Expertise is lost among the deluge of data. Audio, video, pictures, database information and social media are all increasingly overwhelming the cases in which they need to be analyzed. Under these circumstances, and without the proper tools, the ability to be an expert with a complete understanding of a case is nearly impossible.

The solution to this dilemma is wrapping instruments that interpret and understand this data around the information. Machine learning can deal with the volume, variety and velocity of the data in ways no human being is capable of doing. Even so, the real key to effectively harnessing machine learning is adding a human intuitive interface on top of that massive data crunching cloud processing power. This aspect is the frontier of where the field is headed currently. It would allow an expert to unearth the data through analytics and their own analysis. Firms can then sort through the mountain of information to understand and interpret trends and, more importantly, find white space. The expert could reclaim their seat and start to seek out opportunities for their firm.

WHERE IS AI?

Currently, AI is nearly ubiquitous in the LegalTech space. While we are still relatively early in the use of AI, you can find it in legal research, eDiscovery, business of law applications, contract review, contract due diligence, contract creation, and dozens more.

One explosive area for growth will be with analytics, such as predicting what a judge may decide in a given matter by looking at how she decided previously and applying an algorithm to determine the likely outcome if a similar case sat before her. The next spaces for growth will be an AI driven machine around strategy leveraging all data from previous cases to help craft the perfect game-plan.

We are still very early days with AI, and while it serves as a compliment to human decision making as augmented intelligence, in time will have the ability to replace some more complex components of legal work.

TECHNOLOGY IN THE CLASSROOM

BY: DEIRDRE GOLDEN

The last two years have proven instrumental in moving law school classrooms onto a virtual platform. Many question the efficacy of this movement, both in the actual day-to-day ability to meaningfully learn the information and the ability to translate learning to success on the bar exam.

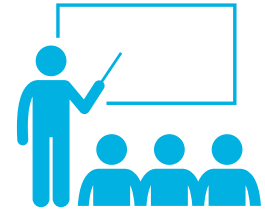
While the online education system is not new, it took an obvious leap after the COVID-19 pandemic, leading many to review the efficacy of this learning environment. As a sign of the times, the American Bar Association, for the first time in American legal education, permitted law schools to institute fully remote learning programs, accredited for a Juris Doctorate. Previously, the ABA guidelines only granted up to one-third of the required courses for a J.D. to be taken through “distance learning”.

Indeed, the purpose of law school is to educate people in the practice of representing and advising other people, and digital communication in the classroom, which includes online learning and teaching, is able to better achieve that goal. Online education is theoretically able to increase reach to include a more diverse group of potential lawyers. Those, in turn, are more likely to better connect with their clients given their varied experiences. Professor Morenike Saula of The George Washington Law School writes, “distance learning is an innovative way to pursue legal education. It has the potential to provide better learning results than traditional face-to-face learning; and it often proves to be ‘more effective, than the traditional classroom’”[3].

[3] Saula, Morenike. “Crisis Induced Innovation in U.S. Legal Education.” *Journal of Legal Education*, vol. 70, no. 3, 2020, pp. 689–698., <https://doi.org/https://jle.aals.org/home/vol69/iss3/9/>.

INTIMACY OF ONLINE CLASSES AND THE SOCRATIC METHOD

The Socratic method has long been the teaching style for legal professors, heavily applied in first year classes. For a century and more, classrooms typically have a professor orating behind the lectern at the front of the room and calling on students to quiz their understanding and spur their thinking. Online classrooms offer an intimate setting where the professor and students are no longer separated by a podium, with each face visualized up close.



This inherently strips the hierarchy established in a traditional classroom that forms the foundation for Socratic method teaching, and as Professor Jeannie Suk Gersen reports, “makes the attention to each student feel more live and personalized, not less”[4]. These changes push teachers to rethink their teaching and classroom engagement, instead of simply falling back on traditional teaching, potentially leading to more innovation in legal education.



DRAWBACKS OF ONLINE FATIGUE AND FURTHER ISOLATION

The intimacy of an online session does have significant drawbacks, including the now coined term “zoom fatigue” [5]. Antonia A. Miceli writes in the Saint Louis School of Law Journal:



Ideally, online learning requires students to develop routines and a method for moving from task to task. Time management can become a new issue for students who did not struggle with it before the shift online. And for some students, it is not a question of time management, but that they are facing different technology, time, and location challenges when they try to connect with our class, either synchronously or asynchronously. Ideally, online learning requires students to develop routines and a method for moving from task to task. [6]

[4] Gersen, Jeannie Suk. “Finding Real Life in Teaching Law Online.” The New Yorker, 23 Apr. 2020, <https://www.newyorker.com/culture/personal-history/finding-real-life-in-teaching-law-online>.

[5] Mary Meisenzahl, What It Feels Like to Experience Zoom Burnout and How to Avoid It, BUS. INSIDER (June 20, 2020), <https://www.businessinsider.com/zoom-burnout-video-call-fatigue-from-work-and-school-2020-5>

[6] Antonia A. Miceli, From a Distance: Providing Online Academic Support and Bar Exam Preparation to Law Students and Alumni During the COVID-19 Pandemic, 65 St. Louis U. L.J. (2021) <https://scholarship.law.slu.edu/lj/vol65/iss3/9>

Two years later, it may feel more natural to spend our time in virtual rooms, however, society has also learned the devastating isolation that comes with lack of in-person socialization. For students, this problem presents itself in skills and knowledge deficits, most pronounced in underdeveloped interpersonal skills. While the academy is not wholly opposed to a fully distanced learning curriculum, the ABA has yet to vote on the change long-term. During the 2022 Annual Meeting, several resolutions will go before the House of Delegates for their concurrence or rejection. [7]

STUDENTS WITH DISABILITIES

Most agree that the option for distance learning would significantly increase the possible accommodations for students with disabilities. [8] Accommodating disabilities in the classroom through course design, updating assignments or final exams, can all exist without disrupting the class or publicizing the person with a disability.



There are challenges ahead, but the overarching trend skews positively toward the shift in online learning opportunities. By and large, it has not proven to devalue the teaching opportunities nor the learning by students in the legal field. This mirrors what we have seen in the professional world—remote working did not result in a drop in productivity, and, in many cases, resulted in a more productive workforce. But working solely online does provide unique challenges, requiring students and faculty to collaborate on a very high level. The data around bar exam results for students who relied exclusively on the virtual classroom is not yet available, but it seems that when all parties are invested this is an excellent option.

[7] American Bar Association, Section on Legal Education, Feb. 2022, <https://www.americanbar.org/news/abanews/aba-news-archives/2022/02/law-schools-plan-virtual-expansion/#:~:text=Two%20years%20after%20nearly%20all,education%20without%20granting%20a%20vari>ance.

[8] Saula, Morenike. "Crisis Induced Innovation in U.S. Legal Education." *Journal of Legal Education*, vol. 70, no. 3, 2020, pp. 689–698., <https://doi.org/https://jle.aals.org/home/vol69/iss3/9/>.

TECHNOLOGY COMPETENCY

BY: KIMBERLY BENNETT

Every attorney in the United States has a duty of competence when serving clients. [9]. Since 2012, this duty has extended to the practical application of technology in addressing and responding to clients' needs [10]. For years, we have discussed ways to elevate our tech competence by learning and leveraging tools like practice management platforms and online payment solutions. However, those discussions were only scratching the surface. Now, with a world that has largely moved digital because of the Covid-19 pandemic, our clients and colleagues have new expectations regarding our tech competence. Today, technology isn't simply meant to improve efficiencies in business operations and the practice of law; it's intended to drive the more effective delivery of legal services while increasing access and responding to the risks of managing client relationships in an online environment. To accomplish this, we must elevate our tech competence regarding cybersecurity, client communication, and process and workflow enablement.

CYBERSECURITY

With an estimated seventeen to forty-six percent of firms reporting they have experienced a cyber-attack, mitigating cybersecurity risks are essential to the success of firms growing in a digital-forward world. [11] As per Model Rule 1.6, attorneys have an obligation to uphold the confidentiality of client information, which is significantly at risk in the case of a cyber breach [12].

[9] American Bar Association. Rule 1.1 Competence - Comment. americanbar.org.

https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/comment_on_rule_1_1/. Accessed June 6, 2022. (*Discussing... the duty of attorneys as it relates to technological competence, as it can no longer be ignored in a field where reliance upon tech tools has become a new standard*).

[10] American Bar Association. Rule 1.1 Competence - Comment. americanbar.org.

https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/comment_on_rule_1_1/. Accessed June 6, 2022

[11] Ries DG. 2021 Cybersecurity. americanbar.org.

https://www.americanbar.org/groups/law_practice/publications/techreport/2021/cybersecurity/. Published December 22, 2021. Accessed June 30, 2022. (*Discussing the variation of figures in the article, the range in those experiencing a breach is due to a dependence on the firm size*).

[12] American Bar Association. Rule 1.6 Confidentiality of Information. americanbar.org.

https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_6_confidentiality_of_information/. Accessed June 30, 2022. (*Discussing this rule in context, it is clear to see that this obligation would be compromised in the case that an unauthorized user gains access to a system which holds confidential privileged information.*)

Common examples of cyber-attacks include ransomware attacks, data breaches, phishing, and other spam attempts which cause financial and reputational damage. Ransomware attacks occur when a hacker gains control of a system and removes access from the original users, typically via encryption, and requests a large sum of money to return it. [13] These attacks jeopardize the confidentiality of information on a network, resulting in a widespread data breach. Incidents like these can happen quite quickly. Sometimes, the breach occurs from a team member opening an email from a source that appears legitimate but, unfortunately, downloads code that infects their current computer with malware. This malware then spreads from server to server, compromising other computers on the network, blocking access to critical business tools, and removing access to essential files.

Defending against these possibilities requires a consistent commitment to cybersecurity throughout a business. Training that educates team members to detect phishing emails and enforce secure password procedures are baseline tactics that every firm should employ to reduce human vulnerabilities within an organization. Additionally, certain practices previously considered 'advanced,' including activating multi-factor authentication and using password managers, are now required tech tools for remote access by team members and firm administrators. [14] In addition to these baseline tactics and technology, firms must take further measures to protect themselves by utilizing tools that, when possible, encrypt their data both in transit and at rest, applying for cyber insurance, and implementing data backup and restoration systems to ensure continuity of business during an attack.

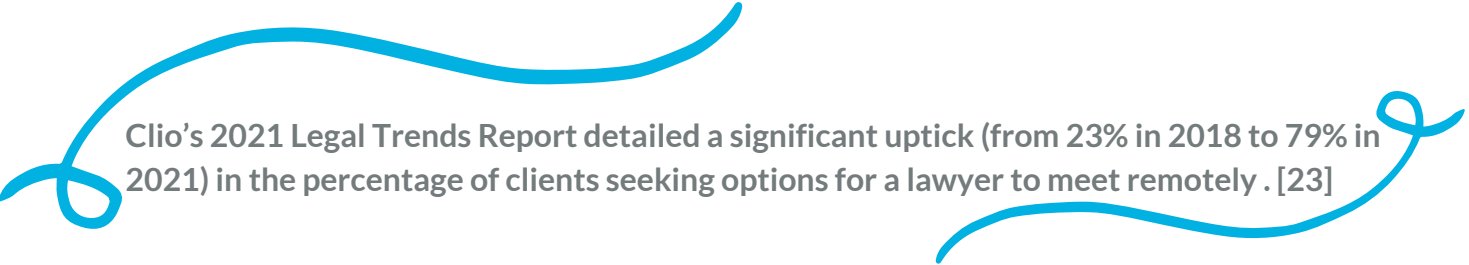
To properly secure a client's information, every practitioner must have a basic understanding of safe cyber practices on the internet, their computers, and mobile devices. Every day, legal professionals must be concerned with the possibilities of phishing and malware attempts, data breaches, and ransomware attacks. It's not a matter of if a cyber-attack will happen; instead, it's a matter of when. We are all one day closer to the inevitable breach of our systems. Thus, establishing a plan to respond to and mitigate that future breach's impact is essential to effectively delivering tech-enabled, tech-competent legal services.

[13] Branham J, Carr C. The Ransomware Epidemic: Criminals Taking Advantage of Those Working from Home- Including Lawyers and Media Companies. americanbar.org. https://www.americanbar.org/groups/communications_law/publications/communications_lawyer/2022-winter/the-ransomware-epidemic-criminals-taking-advantage-those-working-homeincluding-lawyers-and-media-companies/. Published March 16, 2022. Accessed July 6, 2022; CISA. Security tip (ST19-001): Protecting Against Ransomware. CISA. <https://www.cisa.gov/uscert/ncas/tips/ST19-001>. Published April 11, 2019. Accessed July 6, 2022.

[14] Ries DG. 2021 Cybersecurity. americanbar.org. https://www.americanbar.org/groups/law_practice/publications/techreport/2021/cybersecurity/. Published December 22, 2021. Accessed June 30, 2022.

CLIENT COMMUNICATION

Clients live in a digital-forward world where the metaverse is growing, cashless transactions are the norm, and teams work globally. Given this, clients don't simply disconnect with the modern world when they need legal assistance. Instead, they expect a similar frictionless experience when engaging legal professionals to address their needs, including expecting access to virtual meeting solutions, messaging platforms, and video content platforms that provide easy methods to access legal services.



Clio's 2021 Legal Trends Report detailed a significant uptick (from 23% in 2018 to 79% in 2021) in the percentage of clients seeking options for a lawyer to meet remotely . [23]

While the jump in requests for remote access to legal teams probably grew because of the pandemic, the trend was already moving in that direction. In 2020, firms that utilized client portals, online payments, and customer relationship management (CRM) software collected nearly 40% more revenue per lawyer in comparison to firms that lacked these tools. These figures illustrate the need for legal teams to meet clients in the spaces where they are already comfortable while operating in a world further digitized by Covid-19. Given this trend, legal teams must embrace more robust and focused solutions to improve and enhance client communication. [15]

Today, there is a broad spectrum of tools that provide virtual-first, simplified, and streamlined ways to improve and enhance client (and prospective client) communication without requiring an enormous investment of resources. With scheduling tools like Calendly, legal teams reduce the friction of scheduling meetings with clients and allow for both the legal team and clients to choose times that work best for both parties. With messaging platforms like Slack or WhatsApp, legal teams move communications out of email and toward platforms that are used more readily by their clients, with many businesses using Slack and many individuals using WhatsApp. With virtual meeting platforms like Whereby, Google Meet, and Legaler, clients access personalized video meetings with their legal team without having to drive hours, leave their job, or significantly disrupt their days. And, with video content platforms, like Crowdcast, Youtube, and Demio, legal teams provide on-demand or live, educational content covering a range of topics impacting their clients (and prospective clients).

[15] Clio. Legal Trends Report. <https://www.clio.com/resources/legal-trends/>. Accessed June 30, 2022

Each of these communication-focused tools or platforms provide straightforward, accessible, and scalable ways for legal teams to effectively and efficiently deliver legal education and legal services. Of course, with an increase in the use of tools to improve communication, inevitably, there are additional risks that must be managed, including implementing enhanced measures around know your client, privacy, and cybersecurity (as discussed above). These risks underscore the need for firms to move beyond a basic understanding of security to assure the accessibility of their services while retaining client confidentiality, along with our other ethical obligations.



Leveraging more advanced tools is a requirement for all legal professionals in a digital-first world. While risks are inevitable, they should not be a barrier to implementation and innovation.

PROCESS AND WORKFLOW ENABLEMENT

As technology becomes an integral component in the delivery of effective and efficient legal services, legal teams must embrace the power of technology to assist with the completion of tasks and processes once reserved for team members. Expressly, legal professionals must accept that some of the functions historically performed by individuals will now be performed (and should be performed) by technology. Fear of this critical and necessary change must not keep the industry from moving forward. In fact, accepting this change allows teams to focus on serving more clients without compromising the quality of service.

Automation tools like Zapier or Make, which connect data between hundreds of applications, including Google services, Notion, Clio, Squarespace, Calendly, and more, allow teams to systematize and streamline matter and operations-focused processes. These tools remove slow, repetitive, manual tasks that drain precious resources and create inconsistencies in delivery. With minimal setup required, automation tools power through hundreds of tasks with as little as a click of a button, giving teams the ability to reallocate their resources toward increased process improvements and improved client experience, thereby creating a win-win for legal teams and the clients they serve.

Beyond automation, process and workflow enablement tech tools that streamline document processing tasks are uniquely suited for optimization by legal teams. For example, with tools like Diligen and LegalSifter, natural language processing models are trained on legal documents to extract and manipulate clauses that compose a document, simplifying tedious processes and workflows previously only performed by people.



Here, these tools perform consistent searches, edits, and analyses, allowing legal professionals to ditch the manual work and, in exchange, focus on the more advanced, nuanced legal needs of their clients that technology cannot execute.

When used in combination, automation tools, artificial intelligence tools, and client communication platforms - along with the other tools in a growing tech toolkit - will significantly reduce redundancies, broaden access, and streamline the workflow of many legal professionals. Improved artificial intelligence and deep learning techniques have opened the door to automatic generation and deconstruction of standard legal documents, which will allow legal teams to embrace technology as an integral component of delivering meaningful, tailored work to address clients' legal needs. Crafting a cohesive and secure suite of software to assist in day-to-day operations could not be more of the essence when it comes to reducing the barriers to affordable and accessible legal care across the country and essential in practices of all shapes and sizes.



LOOKING FORWARD: LEARNING FROM SOLO AND SMALL LAW AND ACCELERATING IMPACT

Over the last few decades, the legal industry has been remarkably effective at resisting much of the technological innovation that has consumed our peer industries. However, we can no longer sustain the artificial divide between the technology we utilize and the advances elevating peer industries around us, especially as the threats in cybersecurity are increasing, clients are expecting virtual options for communication, and technology is improving the delivery of process-driven legal services.

While many in the industry have resisted some of the more advanced tech tools, there is a subgroup, specifically solo and smaller firms, that have been incredibly creative with their application of tech solutions to create cost savings and level the playing field. Learning from the innovation in solo and small law and applying this resourcefulness across the industry is key to this next level of tech competence [16].

Furthermore, current estimates place the inadequately met civil-related legal needs of low-income Americans at 92%, emphasizing the dire demand for broader legal accessibility, affordability, and scalability [17].

Given the remarkable suite of tools available in the categories of practice management, automation, process design, client experience, and more, today, legal practitioners have a vast array of tools to optimize their workflows and reduce costs to address this critical challenge.

Coupling the ingenuity of solo and small law with the momentum of the last 2.5 years in the pandemic, we can accelerate this necessary shift in the industry from maintaining basic technological competence toward leveraging technology as a critical component to addressing stagnant growth, unhealthy law practices, and reducing the access to justice gap.

[16] Kennedy D. Fast Fish and New Technologies: Are Small Law Firms Outcompeting Large Firms? DennisKennedy.Blog.<https://www.denniskennedy.com/blog/2021/12/fast-fish-and-new-technologies-are-small-law-firms-outcompeting-large-firms/>. Published December 13, 2021. Accessed June 30, 2022.

[17] Legal Services Corporation. Executive summary. The Justice Gap Report. <https://justicegap.lsc.gov/resource/executive-summary/>. Published April 19, 2022. Accessed June 1, 2022.



ROCKET LAWYER'S EXPERIENCE IN THE UTAH REGULATORY SANDBOX

REPORT BY ROCKET LAWYER

PARTNERSHIP

This inaugural edition of the Innovation Trends Report is meant to give a holistic view of current changes in the legal system. Most of the report addresses high level issues, but here, the Center for Innovation partners with Rocket Lawyer to help educate our members on the experience of a participant in the Utah Sandbox.



HOLISTIC

The 2022 Innovation Trends Report includes a section looking at the complicated issues around reregulation of the legal profession, and the Center thanks Rocket Lawyer for their willingness to participate as a unique voice in this space.

DISCLAIMER

The views expressed in this report have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the ABA.



ROCKET LAWYER BUILDS ON ITS MISSION IN THE UTAH SANDBOX

The Utah Supreme Court Office of Legal Services Innovation [18] approved a regulatory Sandbox program in late-2020 to address increasing inequities in access to justice during the COVID-19 pandemic. Utah's regulatory program is a policy experiment that seeks to test whether alternative business models for legal services improves access to justice, while at the same time evaluating the risks to legal consumers. The Sandbox operates in an alternative regulatory framework that opens access to legal representation and services through a variety of innovative rules, including allowing non-lawyer owned organizations to provide legal services.

Rocket Lawyer [19], a global legal products and services company headquartered in San Francisco, was among the first in line to join the Sandbox in 2020. Providing simple and affordable access to justice through technology is the company's core mission. From the perspective of Rocket Lawyer founder and CEO Charley Moore:

— “ —

“What we saw early on is that the Utah Supreme Court really shared our values around making legal services more affordable and making access to justice a reality for more people.”

— ” —

The legal profession's business model often prevents average Americans and small business owners from being able to afford the hourly rates for legal services from a traditional law firm. Likewise, traditional law firms often lack the ability to take on smaller personal and business matters.

The Utah Sandbox provides Rocket Lawyer the opportunity to offer direct and affordable legal help to consumers in Utah (and beyond), scale legal services offerings, and do what Rocket Lawyer already does in the United Kingdom. Over a year later, Rocket Lawyer continues to innovate in the Utah Sandbox.

[18] <https://utahinnovationoffice.org/>

[19] <https://www.rocketlawyer.com/>

WHY THE UTAH SANDBOX?

Getting approved to offer legal services in Utah's groundbreaking experiment was not an unfamiliar task for Rocket Lawyer. In 2017, Rocket Lawyer was approved to offer direct legal representation to consumers in England and Wales. Since then, Rocket Lawyer UK has provided quick and reliable legal representation and help to members at a transparent and affordable price by using a combination of staff and independent lawyers. The experience has been positive for all involved - especially for members.

In the United States, Rocket Lawyer provides a simple and affordable way to meet the legal needs of individuals, families, and businesses. The company serves customers nationwide in both state and federal practice areas and with business services. Countless individuals and small businesses have received help to File Confidently™ with Rocket Lawyer products that assist with trademarks, taxes, corporate filings, and more. Customers also have access to hundreds of customizable online legal documents and informative articles.

Offering direct attorney assistance or representation, however, is significantly more complicated (or not possible at all) due to the restrictions on non-lawyer ownership of law firms throughout the U.S. Outside of Utah, when a Rocket Lawyer member needs to hire an attorney, that member signs a separate engagement letter with an independent (and vetted) Rocket Lawyer network attorney or finds another attorney on their own at great expense. In Utah, that process is streamlined through Rocket Lawyer Attorney Services Inc., allowing users to hire, pay, and communicate with their lawyer all on one platform.

Participating in Utah's Sandbox allows Rocket Lawyer to extend its mission of making the law affordable and simple by bringing even more value to legal consumers. As founder and CEO Charley Moore explains: "By being able to employ lawyers directly, we are now going to be able to provide a great customer experience at a fraction of the cost."

By being able to employ lawyers directly, Rocket Lawyer is now going to be able to provide a great customer experience at a fraction of the cost.

PROVIDING SERVICES IN THE SANDBOX

It is easy to see the synergy between the Sandbox and the Rocket Lawyer mission. Both are committed to improving access, lowering costs, and creating a new framework for legal services. Bringing

innovation to the table was and is an easy lift for the company. So how is the experiment going for both the Office of Legal Services Innovation and Rocket Lawyer Attorney Services?

According to reports from the Office of Legal Services Innovation, as of June 2022, 42 low or moderate risk entities have been authorized to provide legal services through the Sandbox, including Rocket Lawyer Attorney Services. These entities, as the Office of Legal Services Innovation explains, do not present much more risk of harm to legal consumers than traditional legal services. To date, over 23,000 legal services were sought through the Sandbox from more than 18,000 different clients. Ninety percent of the legal services were provided either by lawyers or with lawyer involvement. The top six legal categories covered were:

- Military/Veterans Benefits (39.1%).
- Business (29.6%).
- Accident/Injury (9.4%).
- End of Life Planning (7.2%).
- Marriage/Family (3.3%).
- Financial (2.42%).

Per the June 2022 report, there have been only eleven complaints reported to the Office of Legal Services Innovation, or one complaint per 2,123 services rendered. Harm-related complaints are even more rare, with a ratio of 1 complaint per 3,892 services rendered.

To date, Rocket Lawyer Attorney Services has served, and continues to serve, Utah members in a wide variety of practice areas. To provide these services, Rocket Lawyer Attorney Services employs attorneys and utilizes its network of lawyers that specialize in a variety of practice areas, including, but not limited to:

- Bankruptcy.
- Civil Rights.
- Contracts and Agreements.
- Corporate and Incorporation.
- Criminal Defense.
- Debt.
- Employment.
- Estate Planning.
- Family.
- General Practice.
- Immigration.
- Intellectual Property.
- Personal Injury.
- Real Estate.
- Tax.



Since starting in the Utah Sandbox in October 2020, Rocket Lawyer Attorney Services has successfully assisted with thousands of different legal matters, with many satisfied clients coming back for multiple engagements. The vast majority are small business owners, however, many individuals have sought help with personal legal matters as well. While participating in the Sandbox program, Rocket Lawyer Attorney Services collects and reports data to the Utah Supreme Court Office of Legal Services Innovation for monitoring and compliance.

Through the Sandbox program, lawyers for Rocket Lawyer Attorney Services have provided a variety of legal services, including:

- Review of legal documents customized on the Rocket Lawyer platform.
- Answers to specific legal questions.
- Attorney consultations.
- Discounted hourly rates.
- Business service filings, including trademark registrations, at discounted rates or on a flat fee basis.

The pricing for a standard Rocket Lawyer membership is consistent, predictable, and competitive. Rocket Lawyer members in Utah pay \$40 a month to access the services above via Rocket Lawyer Attorney Services, plus the following:

- Customizable legal document library.
- Electronic signing of documents that members make (both on and off the platform) using RocketSign®.
- Digital payments for key legal documents with RocketWallet™.
- Discounted rates for help with taxes via RocketTax™.
- Ability to share videos with attorneys on the platform using RocketEvidence™.

Given the value being provided at such a low cost, it is no surprise that Rocket Lawyer members are satisfied with the services they receive. To date, there have been no complaints relating to the legal services provided by Rocket Lawyer Attorney Services through the Sandbox.



PROVIDING SERVICES IN THE SANDBOX

Trademark clients are a significant portion of the clients served by Rocket Lawyer Attorney Services through the Sandbox. After all, trademark registrations are among the most common forms of IP protection many small business owners need. Because trademark registration is a federal practice, would-be trademark registrants from multiple states have received assistance via Rocket Lawyer Attorney Services. With so many happy clients, it is clear that there is both demand and a significant need for low-cost and easy-access business legal services nationwide, a need that Rocket Lawyer Attorney Services is able to meet with innovative solutions and the modified policy framework offered through the Sandbox.

As Rocket Lawyer Attorney Services lawyer Justin Johanson explained: "Rocket Lawyer lets lawyers be lawyers. This isn't just democratizing access to justice for individuals, it's democratizing the legal market for lawyers." This is a result of the framework that Rocket Lawyer Attorney Services provides for the lawyers that serve clients in the Sandbox. Attorneys are connected with clients that range from 19-year-old entrepreneurs interested in NFTs to established small business owners looking for transactional services. The administrative and marketing work is done for the lawyers, allowing lawyers to focus on legal work and providing high quality services.

The high number of happy Rocket Lawyer Attorney Services clients that have engaged in the Sandbox for multiple legal matters shows that this model is working. One such client, Dr. Michelle Williams Alden, the owner of Healthy Foundations in Boise, Idaho, has been a Rocket Lawyer member for years. Healthy Foundations, which began in 2013, is a counseling agency that works with parents who have challenging kids. Healthy Foundations offers both an online parent training program and a 90-day in-home program. In 2021, Dr. Williams Alden started using Rocket Lawyer Attorney Services for her business needs.

Alden couldn't be happier about the services she obtained from Rocket Lawyer Attorney Services.

"Rocket Lawyer is great and it's great for small businesses. We completed an NDA. The process was easy: I answered questions and it spit out the forms for me," Alden says. "This is wonderful for small businesses because you're protected from a legal standpoint. The Rocket Lawyer website makes it easy to understand and use, and it's not a big financial investment."

What's more, the Utah Sandbox allowed her to directly hire a Rocket Lawyer Attorney Services attorney in Utah to deal with a trademark issue, at substantially lower costs than if she hired an attorney through a traditional law firm.

"The Rocket Lawyer team was super helpful. I couldn't figure out through my own research how to go about the trademark process ... We went into this process without any clue on how to do it. The Rocket Lawyer attorney had knowledge and was a good teacher in helping us understand what we could do and what we couldn't do," Alden notes.

The Rocket Lawyer Attorney Services attorney also assisted with the re-branding of the business and its name. According to Alden, "He wanted to make sure that we were protected as much as possible."

Alden's goal is to grow the company. "We want to make sure that we protect ourselves legally as we expand," Alden says. "We wanted to make sure that all of our bases were covered. We're super grateful for how easy Rocket Lawyer has made that."



THE FUTURE IS HERE AND NOW

The Utah Sandbox is revealing what Rocket Lawyer has known all along. Equitable justice requires accessible and affordable legal services, and accessible and affordable legal services will remain largely out of reach without regulatory reform.

Rocket Lawyer is using this moment in time to address the consumer experience and to continue innovating to connect the dots between today's complex, disjointed, and expensive array of legal solutions and tomorrow's elegant and affordable legal platform.



REGULATORY INNOVATION

AUTHORED BY:
ZACHARIAH DEMEOLA,
HON. BRIDGET MARY MCCORMACK,
AND JANET WELCH

CAN WE COUNT ON REGULATORY INNOVATION BEING A CATALYST FOR GOOD?

The adoption of the sweeping changes in the way legal services are regulated in England and Wales in 2007 ignited a conversation that has reached into the foundations of legal professional regulation throughout the world. In the United States, that conversation is often centered not just about what and how regulation might be changed, but why. Can regulatory innovation offer lawyers better paths toward sustainable practice? Is regulatory innovation inherently positive, or must it be consciously directed toward an explicit societal good, such as expanded access to justice? How do we measure the public good intended to be secured by our existing regulatory structure, and how do we weigh the potential value of changes to that structure against the potential risk of harm?



42 LEGAL SERVICE PROVIDERS IN THE SANDBOX

Two jurisdictions in the U.S. have made bold moves that will begin to help answer those questions. In 2018, a small working group led by a Utah Supreme Court justice and a past Utah State Bar president was directed by the Utah Supreme Court to make recommendations for “optimizing the regulatory structure for legal services in the Age of Disruption.” A year later, the work group “recommended the creation of the world’s first legal services “regulatory sandbox, [18]” modeled roughly after the regulatory testing environments that emerged over the last decade in the regulation of financial services. The Utah Supreme Court authorized the pilot sandbox model in August 2020 [19], grounding its authorization in the potential for creating a breakthrough in the “access-to-justice crisis confronting Utahns of all socioeconomic levels.” As of July 2022, Utah’s alternative regulator has authorized 42 legal service provider entities that would not otherwise be allowed to operate in the Utah.

[18] 2019, *Narrowing the Access-to-Justice Gap by Reimagining Regulation*, <https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/itr-22-footnote-1.pdf>

[19] Courts, Utah. “Utah Court Rules - Approved”. *Utah Court Rules Approved*, Aug. 2020, <https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/itr-22-footnote-2.pdf>

While the Utah Supreme Court was creating the world's first legal services regulatory sandbox, the Supreme Court of Arizona leapfrogged over the "testing lab" or "regulatory sandbox" approach and instead enacted regulatory changes that authorize the provision of some legal services by persons who are not lawyers and eliminate the restriction on nonlawyer ownership of law firms. The first nonlawyer owned law firm, ElevateNext, was licensed in Arizona in January 2022.

WHO CAN PROVIDE LEGAL SERVICES (AND WHAT IS THE PRACTICE OF LAW, ANYWAY)?

All U.S. jurisdictions have laws limiting the provision of legal services to individuals who have not passed the bar and are currently licensed to practice in the jurisdiction. Although the definition of the practice of law varies somewhat from state to state, all states' definitions have indistinct boundaries, which could explain the limited and declining prosecution of the unauthorized practice of law over many decades. It is an open question to what extent the laws have deterred the provision of services at the margins of the indistinct boundaries of the defined practice of law. The recent legal victory in May by Upsolve, a nonprofit company that [20] provides consumer debt services, goes to the heart of the question. The ruling granted Upsolve's motion for a preliminary injunction, resulting in a narrow holding that Upsolve was likely to succeed on the merits that New York's unauthorized practice of law rules infringe on its rights to give legal advice under the free speech clause of the First Amendment.

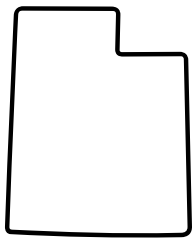


Regulatory innovation efforts increasingly have turned to the question of whether, within the vagaries of the sphere of the lawyer monopoly on the provision of legal services, there are discrete activities that could be performed competently and independently by persons trained less extensively and expensively than lawyers are. In 2012, the Washington Supreme Court pioneered a form of limited paraprofessional practice, "limited license legal technicians," regulated within the Washington State Bar Association and subject to rigorous, but limited, training and testing.

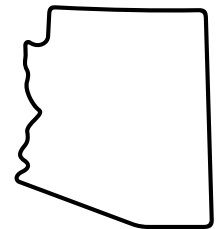
[20] Board, Daily News Editorial. "Illegal Legal Advice: Kudos to Upsolve for Fighting to Provide Debt-Collection Advice." New York Daily News, 28 May 2022, <https://www.nydailynews.com/opinion/ny-edit-illegal-legal-advice-20220528-qvznzpnj5exnids6cobi353hy-story.html>.

"LLLTs" were authorized to provide limited advice and assistance directly to clients on routine cases of divorce, child residential placement, child support, and other family matters. A form of the LLLT model was subsequently adopted in Utah, Arizona, Colorado, Oregon, Minnesota, Delaware, and New York. In 2020, the Washington Supreme court sunset the LLLT program, citing the overall costs of sustaining the program and the small number of interested individuals [21].

While most states exploring different versions of licensed paraprofessionals are still designing or piloting programs, in 2020 Utah and Arizona forged ahead with full implementation of Licensed Paralegal Practitioners (LPPs) and Legal Paraprofessionals (LPs), respectively. Both LPPs and LPs are subject to licensing requirements, ethical rules, and regulatory oversight, but can operate independent of attorney supervision. Both offer services in specific family law matters, but LPPs can also assist in forcible entry and detainers and certain debt collection cases, while LPs can also address limited jurisdiction civil cases, limited jurisdiction criminal cases where no jail time is involved, and certain state administrative law matters. The scope of an LPP's or LP's licensing is narrower than that of an attorney and includes things like preparing and filing documents and offering advice in certain situations.



As of June 1, 2022, there were 23 LPPs in Utah and 18 LPs in Arizona. LPPs and LPs may work independently, but already there are examples in Utah and Arizona of these types of licensed paraprofessionals working in collaboration with attorneys, often as part of a law firm.



MUST ALL LEGAL SERVICES BE PROVIDED THROUGH A LAWYER-CONTROLLED BUSINESS STRUCTURE?

Rule 5.4 of the Model Rules of Professional Conduct [22] prohibits a lawyer from forming a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law and from sharing legal fees with nonlawyers.

[21] Stephens, Debra L. "Washington Supreme Court Votes to Sunset the Limited Legal Technicians Program." Received by Stephen R. Crossland, et. al, 5 June 2020
<https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/itr-22-footnote-4.pdf>

[22] American Bar Association. "Rule 5.4: Professional Independence of a Lawyer." American Bar Association, American Bar Association,
https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_5_4_professional_independence_of_a_lawyer/.

Except for Arizona, which abolished the ban on alternative business structures ("ABS") in 2020, all U.S. jurisdictions have a form of this rule. The District of Columbia has long had a modified rule that permits nonlawyer partners in law firms provided they are providing professionals services that assist the firm in delivering legal services. The D.C. exception has been infrequently used. Utah's regulatory sandbox is providing an exploratory, time-limited exception to its existing ban. In September 2021, the ABA's Standing Committee on Ethics and Professional Responsibility addressed the open question of whether a lawyer licensed in a jurisdiction that bans nonlawyer ownership may invest in an ABS in a jurisdiction that allows it. The committee concluded [23] that 5.4 allows a lawyer to "passively [to] invest in a law firm that includes nonlawyer owners . . . operating in a jurisdiction that permits ABS entities, even if the lawyer is admitted to practice law in a jurisdiction that does not authorize nonlawyer ownership of law firms."

"Passive" investment, for this purpose, means investment in an ABS with the sole aim of receiving a return on capital based on the efforts its employees, without any personal participation by the investor in the ABS's work or management—in short, wholly unrelated to the investor's law practice.



Australia, England, and Wales have allowed nonlawyer ownership of law firms since 2001 and 2007. Several provinces in Canada have liberalized the rule. In the U.S., the question of whether the rules banning nonlawyer ownership of law firms should be changed has become a flashpoint in regulatory reform conversations. The dynamic has been driven by hope and fear - the hope that nonlawyer ownership will spark innovations that make legal services more affordable to people who are now priced out of the market, and the fear that nonlawyer ownership will undermine lawyers' professional independence and wreak havoc with the economic stability of law firms. Evidence from England, Wales, and Australia suggests that reforms have not led to an increased risk of consumer harm, but innovation and access to justice gains are difficult to measure. To date, there is no emerging consensus on what the England, Wales, and Australian experience demonstrates. Data from Utah and Arizona will offer more food for thought.

[23] American Bar Association: Formal Opinion 499, 2021, p. 6

<https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/itr-22-footnote-6.pdf>

BEYOND UTAH AND ARIZONA

Some states, like California, Connecticut, Ohio, Florida, and Illinois continue to debate whether and how to adopt recommendations from their respective task forces. Others, like Michigan and North Carolina, are in the early stages of exploring whether and what kinds or regulatory changes should be pursued. While our neighbors to the north in Canada have implemented regulatory sandboxes for legal services in British Columbia, Ontario, Alberta, and Saskatchewan, in the United States the sandbox model has only been adopted by Utah. The independent licensed paraprofessionals model seems to have the most appeal in the United States. In addition to the states already mentioned, jurisdictions like Washington, D.C., New Mexico, Vermont, Wyoming, Idaho, North Dakota, and Indiana are all exploring different options. Change is also happening beyond state court or bar committees and task forces. The New Hampshire state legislature is considering House Bill 1343 [24], which would allow paralegals to provide limited legal representation to lower-income individuals in district, circuit, and family court.

And, although it is too soon to tell right now, Upsolve's victory may have broader implications, calling into question unauthorized practice of law statutes as unconstitutional violations of free speech rights. What remains constant is a growing social problem—a lack of affordable or available legal assistance for people who have legal problems—that has already far outpaced the limited reach of pro bono services or legal aid. Unless states can stem this tide, we can expect the discussion of regulatory innovation to continue in the years to come.

[24] Cline, Andrew. "How N.H. Could Increase Access to Justice through Occupational Licensing Reform." THE JOSIAH BARTLETT CENTER FOR PUBLIC POLICY, Andrew Cline, 10 May 2022, <https://jbartlett.org/2022/05/how-n-h-could-increase-access-to-justice-through-occupational-licensing-reform/>.

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