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May 5, 2020

Mr. David K. Byers
Director
Administrative Office of the Courts
Suite 411
State Courts Building
1501 West Washington
Phoenix, Arizona 85007

Dear Mr. Byers and Justices of the Arizona Supreme Court:

I write to express my strong support for the recommendations of the Task Force on the Delivery of Legal Services.

My views are based on my experience as a lawyer. I served for the past nine years as President of the Legal Services Corporation, the United States' largest funder of civil legal aid programs for low-income people. I practiced law with Arnold & Porter for 30 years, including ten years as the firm's Managing Partner. I am a past President of the 110,000-member District of Columbia Bar and a former General Counsel for the District of Columbia Public Schools. I currently chair the American Bar Association's Task Force on Legal Needs Arising Out of the 2020 Pandemic. I offer my views solely in my personal capacity and not as a representative of any entity.

The civil justice system in our country is failing tens of millions of people every year. The Legal Services Corporation estimates that 86 percent of the civil legal problems of low-income people receive no or inadequate legal help. The National Center for State Courts estimates that in approximately 75 percent of civil cases in state courts at least one party does not have a lawyer. The Self-Represented Litigation Network estimates that 30 million people each year participate in legal proceedings without a lawyer. These matters involve the most basic of human needs – shelter, family stability, personal safety, health, and economic subsistence.

I believe significant regulatory reform is an essential component of addressing the justice gap. Reform needs to include two elements. First, we need to loosen onerous restrictions on the unauthorized practice of law that consign too many people who cannot afford a lawyer to no legal service of any kind – a classic case of letting the perfect be the enemy of the good. The choice for the person who cannot afford a lawyer today is not an unlicensed paralegal. It is too often nothing at all. And we do this in the interest of “consumer protection.” We need to permit competent, well-trained, regulated professionals who do not have a J.D. or membership in the bar

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to provide assistance in cases where people would otherwise have to fend for themselves. I am glad that you are moving forward with the Task Force's recommendation to develop a program to license such professionals.

Second, it is important to liberalize the rules governing nonlawyer ownership of and financial interests in entities providing legal services. Investment in legal innovation that would better serve the public is currently obstructed not only by restrictions on the unauthorized practice of law, but also by the prohibitions on fee-sharing and nonlawyer investment in legal enterprises. As a result, the practice of law today looks very much like it did in the 20th century, if not the 19th. We owe the public a system of justice that reflects the kind of access, effectiveness, and efficiency that innovation has brought to so many other industries and professions in 21st century America. Eliminating Rule 5.4, as the Task Force recommends, is an important step toward achieving that goal.

The current Covid-19 pandemic makes this a particularly appropriate time to move ahead with regulatory reform. The crisis in unmet legal needs is about to become far greater and even more urgent, with more than 30 million people who have recently lost their jobs soon to face a flood of eviction, foreclosure, and debt collection cases. This is a time for action.

I was glad to learn that Utah is moving ahead with its regulatory sandbox and is accepting expedited review of applications that provide low-cost or no-cost services to individuals and businesses. I hope Arizona will follow Utah's example.

Sincerely yours,



James J. Sandman