INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM

UNIVERSITY OF DENVER

2060 South Gaylord Way
John Moye Hall
Denver, CO 80208
303-871-6600

iaals.du.edu

Submitted via email to the Supreme Court of South Carolina

Re: Comments in Support of Not Making Changes to Existing Rule 5.4

Dear Justices on the South Carolina Supreme Court,

We write on behalf of IAALS, the Institute for the Advancement of the American Legal System, regarding the South Carolina Supreme Court's request for written comments from interested parties regarding potential clarification of Rule 5.4. IAALS is a national, independent research center at the University of Denver that innovates and advances solutions that make the civil justice system more just. IAALS identifies and researches issues in the legal system; convenes experts, stakeholders, and users of the system to develop and propose concrete solutions; and then goes one step further to empower and facilitate the implementation of those solutions to achieve impact. We are a nonpartisan organization that champions people-first reforms to the legal system and the legal profession. Since 2019, IAALS has had an Unlocking Legal Regulation[1] initiative through which it has worked with leaders in states across the country to rethink how we regulate and deliver legal services to ensure a more robust ecosystem and market of models and providers—one that is competitive, broadly accessible, and better meets the needs of the people.

In its request for written comments, the South Carolina Supreme Court questions whether additional safeguards are needed in response to private equity companies' participation in alternative business structures (ABS) permitted in various states. Through our Unlocking Legal Regulation project, IAALS has been tracking ABS and other regulatory innovation programs

[1] INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *Unlocking Legal Regulation*, https://iaals.du.edu/projects/unlocking-legal-regulation (last visited Sept. 28, 2026).

across the country, and we would like to share what we have learned thus far so that South Carolina may benefit from this insight before taking additional steps to either promote or discourage the operation of ABS entities in its jurisdiction.

The History of Alternative Business Structures in the U.S.

It is well-documented that the vast majority of Americans do not have access to affordable legal help when they need it. [2] This gap in legal services extends well beyond the income eligibility line for free legal aid into the middle class. The breadth and depth of the problem is so extensive and dire that even if all lawyers in the United States did a substantial amount of pro bono work and legal aid was fully funded, it would not be enough.[3] The reality is that we need an entire ecosystem of legal service models and providers to bridge the gap, including legal service delivery options that involve people who are not lawyers.

In addition to this crisis, the legal profession has traditionally been slow, if not at times resistant, to change. While other industries embrace change to improve operations and meet their customers' evolving needs, the legal profession has lagged behind, adhering to traditional ways of operating law firms and delivering legal services.

Allowing alternative business structures can potentially increase access to affordable legal services and innovation in the profession in a variety of ways. ABSs permit outside investment and ownership by people other than lawyers. Law firms can use outside investment to invest in operations and technology, allowing them to increase efficiency, create new and sometimes more affordable service delivery models, and extend their reach and impact. ABSs also permit collaboration between lawyers and professionals from other fields (e.g., tech, social work, finance, tax) in a single organization, allowing for a more holistic approach to legal service delivery.

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[2] 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 (Sept. 1, 2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

[3] Zachariah DeMeola, *Pro Bono Work Should Be Encouraged and Celebrated, But Much, Much More is Needed*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (Oct. 18, 2019), https://iaals.du.edu/news/pro-bono-work-should-be-encouraged-and-celebrated-much-much-more-needed.

Three states and one U.S. territory currently permit ABSs: Utah, Arizona, Washington, and Puerto Rico. In August 2020, Utah launched a regulatory sandbox[4] that is designed to test whether changing the way it regulates the practice of law can narrow the access to justice gap without increasing consumer harm. The sandbox involves an application and monitoring process, and permits different types of innovations, including ABSs, when the "innovation requirement"[5] is met and an entity is not providing immigration legal services. The Utah Sandbox is currently in Phase 3,[6] which involves sunsetting the Sandbox and institutionalizing reform efforts. The Utah Supreme Court created an Ad Hoc Committee on Regulatory Reform[7] to assist with these efforts and one of the subcommittees is focused on next steps for ABSs.

In January 2021, the Arizona Supreme Court created its ABS program.[8] According to the Task Force on the Delivery of Legal Services,[9] the purpose of the Arizona ABS program is "rooted in the idea that entrepreneurial lawyers and nonlawyers would pilot a range of different business forms" that will ultimately improve access to justice and the delivery of legal services. The two purposes of the program are 1) to improve access to legal services, and 2) to innovate the delivery of legal services more broadly. The Arizona Supreme Court has authorized over 170 ABS entities to date.[10]

On June 17, 2025, the Puerto Rico Supreme Court released its new Rules of Professional Conduct that included a revised Rule 5.4, allowing for nonlawyers to have ownership interests in law firms. The new rules became effective on January 1, 2026.[11]

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[4] UTAH OFF. OF LEGAL SERV. INNOVATION, *Sandbox*, https://utahinnovationoffice.org/sandbox/ (last visited Sept. 28, 2026).

[5] UTAH OFF. OF LEGAL SERV. INNOVATION, *Sandbox Phase 2,* https://utahinnovationoffice.org/sandbox-phase-2/ (last visited Sept. 28, 2026).

[6] UTAH OFF. OF LEGAL SERV. INNOVATION, *Sandbox Phase 3 Implementation*, https://utahinnovationoffice.org/phase-3-implementation/ (last visited Sept. 28, 2026).

[7] UTAH ST. CTS., *Supreme Court's Ad Hoc Committee on Regulatory Reform – Agendas*, https://www.utcourts.gov/en/about/administration/committees/sc-ad-hoc-committee-on-regulatory-reform/sc-regulary-reform/agendas.html (last visited on Sept. 28, 2026).

[8] ARIZ. JUD. BRANCH, *Alternative Business Structures*, https://www.azcourts.gov/cld/Alternative-Business-Structure (last visited Sept. 28, 2026).

[9] ARIZ. SUP. CT. TASK FORCE ON DELIVERY OF LEGAL SERVICES, REPORT AND RECOMMENDATIONS (Oct. 4, 2019), https://www.azcourts.gov/Portals/0/74/LSTF/Report/LSTFReportRecommendationsRED10042019.pdf?ver=2019-10-07-084849-750.

[10] ARIZ. JUD. BRANCH, *Alternative Business Structures Directory*, https://www.azcourts.gov/cld/Alternative-Business-Structure/Directory (last visited Sept. 28, 2026).

[11] Bob Ambrogi, *Puerto Rico Allows Non-Lawyer Ownership of Law Firms*, LAWSITES (Jun. 19, 2025), https://www.lawnext.com/2025/06/puerto-rico-allows-non-lawyer-ownership-of-law-firms.html.

Finally, on October 21, 2025, the application portal for Washington's Entity Regulation Pilot Project opened, which permits ABSs.[12] The Washington Supreme Court recently authorized the first entity.

What the Data Shows So Far

Over the past five years, the regulatory innovation community has collected data related to ABSs. While not plentiful or definitive, the data does offer insights on consumer harm, innovation, and the public's perspective.

What We Know Regarding Consumer Harm

Since the launch of the Sandbox in Utah and the ABS Program in Arizona, state regulators and program administrators in those states have been collecting data pertaining to consumer harm. In Utah, the Office for Legal Services Innovation received a total of 14 consumer complaints across all entities (not just ABS entities) as of January 2024, nine of which were linked to one of the three defined consumer harms (inaccurate or inappropriate legal result, failure to exercise legal rights, purchase of unnecessary or inappropriate service).[13] In relation to the total number of Sandbox services provided, these numbers translate into 1 out of every 4,011 Sandbox services resulting in a consumer complaint. Viewed slightly differently, the data shows that consumer complaints were submitted for less than 0.01% of all services provided in the Sandbox. As of April 2025, the number of complaints has increased to 20.[14]
Data on the number of legal services lawyers provide is not collected by the Utah State Bar so we cannot directly compare the number of complaints per services offered by entities in the Utah Sandbox to the number of complaints per services offered by lawyers operating traditional law firms. We can share the following data, however, from the Utah State Bar and Office of Professional Conduct 2021, 2022, 2023, and 2024 Annual Reports: 2021: 8,998 active lawyers, 681 complaints filed; 2022: 9,221 active lawyers,

[12] WASH. ST. B. ASS'N, *Origins of the Entity Regulation Pilot Project* (Jul. 2, 2025), https://www.wsba.org/about-wsba/entity-regulation-pilot/entity-regulation-pilot-background.
[13] CORNETT ET AL., INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., AN INTERIM EVALUATION OF UTAH'S LEGAL REGULATORY SANDBOX: PART 3 – OUTCOMES EVALUATION, at 27 (Nov. 2025) https://iaals.du.edu/sites/default/files/documents/publications/utah_interim_outcomes_evaluation.pdf.
[14] UTAH OFF. OF LEGAL SERV. INNOVATION, *Innovation Office Metrics* (Aug. 2026), https://utahinnovationoffice.org/innovation-office-metrics/ (note that the Utah Office of Legal Services Innovation no longer shares cumulative complaint numbers on its website).

660 complaints filed; 2023: 9,432 active lawyers, 631 complaints filed; and 2024: 9,478 active lawyers 797 complaints filed.[15]

In Arizona's ABS program, as of May 2025, 24 charges (allegations of wrongdoing) have been filed to date.[16] Charges may be dismissed or resolved at intake or may progress to an investigation as a formal complaint. The charges involved communication (7); dishonesty, fraud, deceit or misrepresentation (4); terminating representation (1); diligence (1); and in 11 instances the nature of the charge was not defined. Of those 24 charges, two resulted in complaints against ABS entities and two resulted in complaints against ABS compliance lawyers.[17] In 2025, 35 complaints were filed against ABS entities or compliance lawyers. Of those 35 charges, 26 matters have been disposed of and seven matters remain open and are still under investigation. While the State Bar of Arizona received 35 complaints during the reporting period, a single complaint may raise multiple Ethical Rule issues.[18] The ABS Annual Reports contain more information about ABS complaints and discipline in Arizona.[19]

As with Utah, we also cannot make a direct comparison between ABS entity and traditional law firm lawyer complaints in Arizona. We are able to share the following data, however, from the 2021, 2022, 2023 and 2024 Arizona Attorney Regulation Advisory Committee Annual Reports: 2021: 25,344 active lawyers, 2,299 charges filed; 2022: 25,421 active lawyers, 2,421 charges filed; 2023: 25,820 active lawyers, 2,797 charges filed; and 2024: 26,285 active lawyers, 2,969 charges filed.[20]

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[15] UTAH ST. B., *Annual Reports*, https://www.utahbar.org/annual-reports/ (last visited Sept. 28, 2026); OFF. OF PRO. CONDUCT, *Annual Report Archive* https://www.opcutah.org/annual-report-archive/ (last visited Sept. 28, 2026).

[16] Jessica Bednarz, *Alternative Business Structures in the U.S.: What We Know and What We Still Need to Learn,* INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (May 14, 2025), https://iaals.du.edu/news/alternative-business-structures-us-what-we-know-and-what-we-still-need-learn.

[17] *Id.*; ARIZ. SUP. CT. COMM. ON ALT. BUS. STRUCTURES, ANNUAL REPORT (2024), https://www.azcourts.gov/Portals/0/26/ABS%20Committee%20Annual%20Report%20to%20Supreme%20Court%20for%202024%20%2802_28_2025%29.pdf.

[18] ARIZ. SUP. CT. COMM. ON ALT. BUS. STRUCTURES, ANNUAL REPORT (2025), https://www.azcourts.gov/Portals/0/2025_Committee%20on%20Alternative%20Business%20Structure%20Annual%20Report.pdf.

[19] ARIZ. JUD. BRANCH, *Alternative Business Structures Resources,* https://www.azcourts.gov/cld/Alternative-Business-Structure/Resources (last visited Sept. 28, 2026).

[20] ARIZ. JUD. BRANCH, *Attorney Regulation Committee Annual Reports,* https://www.azcourts.gov/arc/Annual-Reports (last visited Sept. 28, 2026).

Early Evidence of Impact

In September 2022 and June 2025, the Deborah L. Rhode Center on the Legal Profession at Stanford Law School published reports analyzing the legal service entities that are emerging in response to rule reforms in Utah and Arizona. The key insights from each of these reports are below.

Report Title & Date	**Key Insights**
Legal Innovation After Reform: Evidence from Regulatory Change (September 2022)	▪ Regulatory reforms are spurring substantial innovation in five different forms: traditional law firms, corporate-owned "law companies" such as Legal Zoom, "nonlaw companies" that have added legal services to complement their nonlaw service offerings, "intermediary platforms" that match clients with legal service providers, and entities using nonlawyers and tech to practice law. ▪ Lawyers are playing a central role in the entities and the innovation within them. ▪ A majority of entities are using both technology and other innovations to deliver services in new ways, mostly to consumers and small businesses. ▪ UPL reform appears to be critical to serving lower-income populations. ▪ Reform efforts to this point do not appear to pose a substantial risk of consumer harm.
Legal Innovation After Reform: Five Years of Data on Regulatory Change (June 2025)	▪ Liberalized rules have continued to spur innovations across many different organizational forms, including traditional law firms; corporate-owned "law companies,"; "nonlaw companies"; and "intermediaries". ▪ Authorized entities in both states are providing legal services using a diverse mix of financing sources and pricing models, and, in Utah only, deploying combinations of lawyers, nonlawyers, and software. ▪ Lawyers continue to play significant roles in authorized entities, mitigating concerns that "corporate" practice of law will sideline lawyers or forgo their unique ethical training perspectives and obligations. ▪ Individual consumers remain the prime beneficiaries of entity regulation in Arizona and Utah; however, UPL reform appears to be important for reaching low-income populations. ▪ Technology innovations focus on serving individual consumers and small businesses.

	▪ Publicly available information on consumer complaints and discipline actions in Utah and Arizona shows little to no evidence of consumer harm.

Public Perception and Support

Engaging members of the public in discussions about legal regulatory reform is crucial. These reforms have the potential to significantly impact the lives of everyday citizens, and it is therefore essential that the public is able to play a participatory role in the development of these new approaches.[21] Before launching its ABS Program, the Arizona Supreme Court Task Force on the Delivery of Legal Services surveyed Arizona residents about nonlawyer ownership of law firms and other innovations they were considering.[22] First, the survey assessed respondents' existing knowledge regarding the issue. It asked: "To the best of your knowledge, are individuals who are not lawyers allowed to own or be a partner in a law firm in the State of Arizona?" About a quarter of respondents (24.8%) answered "yes" or "probably yes," 36.3% of respondents answered "probably no" or "definitely no," and 39.0% of respondents answered "Don't Know" or they refused to answer the question. The survey then provided some brief background information and asked respondents whether they would support or oppose a proposal that would change current restrictions to allow people who are not lawyers to own businesses that practice law. Just over half (51.5%) of respondents indicated they would support the proposal, 39.5% of respondents indicated they would oppose the proposal, and 9.0% of respondents indicated they did not know what they would do or refused to answer the question. The survey results indicate that the majority of Arizona residents would support an ABS proposal if it were presented to them.

It is critical in efforts to address access to justice to meet people where they are and put legal services within their reach. We can only do that if we engage directly with consumers to understand their diverse needs, experiences, viewpoints, and difficulties, and make those factors a fundamental part of the solutions. In 2021, the South Carolina Access to Justice Commission and other key partners commissioned a comprehensive assessment of the civil legal needs landscape in South Carolina.[23] The study showed that the need for civil legal aid is great and that, while South Carolina legal aid providers are doing a lot with the resources they have, there are not enough legal services to meet the needs of the state. This data on

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[21] See INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *People Centered Legal Regulation*, https://iaals.du.edu/projects/people-centered-legal-regulation.

[22] This survey is no longer available on the Arizona Judicial Branch's website. Please reach out to the Administrative Office for more information.

[23] S.C. ACCESS TO JUST., SOUTH CAROLINA STATEWIDE CIVIL LEGAL NEEDS ASSESSMENT (2021), https://www.scaccesstojustice.org/legal-needs.

the experiences of people in South Carolina provides critical context for problem solving South Carolina's access to justice needs.

Outstanding Questions

While early results are encouraging, critical questions remain unanswered, including:

- Are ABSs offering services to people and small businesses that fall within the legal services gap?
- What would these people and small businesses have done had they not retained the ABS?
- What is the social return on investment—the measure of social, environmental, and economic benefits—of ABS programs?
- What positive, negative, and unintended impacts have ABSs had on the legal profession?

IAALS encourages ABS program administrators in Arizona, Utah, Washington, and Puerto Rico to collect data that would help researchers answer these questions, and it encourages administrators of ABS programs under development to consider creating a system for collecting data to answer such questions at the outset.[24]

In our own effort to answer these questions, IAALS launched its Alternative Business Structures Evaluation Blueprint project in April 2026.[25] The project aims to co-design a practical approach to evaluation, including defining core program goals, such as expanding access to legal services and innovative service delivery models, establishing metrics and data collection strategies, assessing consumer outcomes and system performance, and supporting continuous learning and refinement over time. IAALS anticipates commencing an evaluation of the ABS program in Arizona in 2027.

Experimentation and Innovation is Still the Path Forward

Alternative Business Structures offer a promising, though still evolving, path toward expanding access to legal services in the United States. Early data from Utah and Arizona show encouraging signs—minimal consumer harm and growing innovation—but critical questions remain. To fully understand their potential, continued experimentation and rigorous data collection are essential. As the access to justice crisis deepens, we cannot afford to stall innovation or move backwards by further restricting law firm models.

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[24] Logan Cornett, *Embedding Data Collection in Innovation*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (Nov. 16, 2023), https://iaals.du.edu/news/embedding-data-collection-innovation.

[25] INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *Alternative Business Structures Evaluation Blueprint,* https://iaals.du.edu/projects/unlocking-legal-regulation/abs-evaluation-blueprint (last visited Sept. 28, 2026); Kelsey Montague, *IAALS Launches New Project to Develop Blueprint for Evaluating Alternative Business Structures,* INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (Apr. 14, 2026), https://iaals.du.edu/news/iaals-launches-new-project-develop-blueprint-evaluating-alternative-business-structures.

Instead, we must create space for thoughtful reform, evaluate outcomes, and remain open to new models that challenge the status quo.

IAALS is grateful to the South Carolina Supreme Court for the opportunity to share information and insights regarding ABS programs in the United States. If the South Carolina Supreme Court has any follow-up questions based on our comments, we welcome the opportunity to discuss in more detail IAALS' work in this area.

Sincerely,

Jessica Bednarz
Director of Legal Services and the Profession

Ericka Byram
Program Associate