COLORADO SUPREME COURT STANDING COMMITTEE ON THE COLORADO RULES OF PROFESSIONAL CONDUCT

AGENDA

October 28, 2022, 9:00 a.m.
The Supreme Court Conference Room and via Webex
Webex link:
https://judicial.webex.com/judicial/j.php?MTID=m6e705844eb1503c6d089d7a470bd6514

---

1. Call to Order [Judge Lipinsky].

2. Approval of minutes for July 22, 2022 meeting [attachment 1].

3. Old business:

   a. Status of the proposed amendment to Rule 1.8(e) [Judge Lipinsky].

   b. Update on the proposed amendments to Rule 1.4 and the comments to the rule [Jessica Yates and Dave Stark].

   c. Report on the patent practitioner harmonization proposal [Rob Steinmetz and Alec Rothrock].

   d. Update from the PALS II committee [Judge Espinosa] [attachment 2].

4. New business:

   a. Possible rule on civility [Natalie Landis] [attachment 3].

   b. Possible rule or comment concerning advice regarding reproductive health [Nancy Cohen].

5. Adjournment.

Our 2023 meeting schedule: January 27, April 28, July 28, and October 27.

Judge Lino Lipinsky, Chair
Colorado Court of Appeals
lino.lipinsky@judicial.state.co.us

Attachment 1

COLORADO SUPREME COURT

STANDING COMMITTEE ON THE RULES OF PROFESSIONAL CONDUCT

Submitted Minutes of Meeting of the Full Committee
On
July 22, 2022
Sixty-Fourth Meeting of the Full Committee

The sixty-fourth meeting of the Colorado Supreme Court Standing Committee on the Rules of Professional Conduct was convened at 9:00 AM on Friday, July 22, 2022, by Chair Judge Lino Lipinsky de Orlov.

Present at the meeting, in addition to Judge Lipinsky and liaison Justice Maria Berkenkotter, were Nancy Cohen, Cynthia Covell, Thomas E. Downey, Jr., Judge Adam Espinosa, Erika Holmes, April Jones, Matthew Kirsch, Judge Byron M. Large, Marianne Luu-Chen, Julia Martinez, Cecil E. Morris, Jr., Noah Patterson, Troy Rackham, Henry Richard Reeve, Alexander R. Rothrock, Marcus L. Squarrell, David W. Stark, Robert W. Steinmetz, Jamie S. Sudler, III, Jennifer J. Wallace, Judge John R. Webb, Jessica E. Yates, and E. Tuck Young. Liaison Justice Monica Márquez, Margaret Funk, Marcy Glenn, Tyrone Glover, Eli Wald, and Lisa Wayne were excused from attendance. Judge Ruthanne Polidori was also absent. Special guests in attendance were Daniel Smith, National Association of Patent Practitioners Advocacy Committee Chair; Molly Kocialski, United States Patent and Trademark Office; Judge Lipinsky's law clerk Carey DeGenaro; and his extern, Kristina Konstantinovna Abdalla.

1. **Call to Order.**

   Judge Lipinsky called the meeting to order at 9:03 AM. He welcomed those attending in person, virtually via Webex, and by telephone. He reviewed the names of all attendees and noted those having excused absences. He also noted the attendance of his law clerk and extern as well as guests Dan Smith and Molly Kocialski. Judge Lipinsky reported that Judge William R. Lucero had stepped down from the Committee upon his retirement as the state's Presiding Disciplinary Judge, and welcomed Bryon M. Large, who succeeded Judge Lucero as Presiding Disciplinary Judge.

2. **Approval of Minutes for April 22, 2022 Meeting.**

   A motion was made and seconded to approve the minutes for the meeting of April 22, 2022. The motion was approved unanimously with the exception of one abstention by a member who was not in attendance at the April 22 meeting.

3. **Report on Approval of the Technical Correction to Comment [3] to Rule 1.16A**.

   The Chair reported that, on April 28, 2022, the Supreme Court adopted the technical correction to Comment [3] to Rule 1.16A as recommended by the Committee. The Chair

thanked member Rothrock and Steve Masciocchi for their work on the matter and thanked the Supreme Court for its quick action in adopting the Committee's recommendation.

4. Report on the Public Hearing on the Proposed Amendment to Rule 1.8 (e).

The Committee had previously recommended amendments to Rule 1.8(e). The Chair reminded the Committee that the deadline for public comment was July 22, 2022, and noted that comments will be posted to the Supreme Court website.

5. Report from the Rule 1.4 Subcommittee

The Chair introduced the topic for the Committee's consideration, noting that, depending on comments made today, the matter would most likely proceed to a vote of the Committee following discussion.

Member Yates thanked the members of her subcommittee for their participation, noting that the subcommittee had considered the comments of the Committee made at the April 22, 2022 meeting when making its amendments, and proposed recommendations for the Committee's further consideration. She noted that the proposed changes were intended to require an attorney who does not carry professional liability insurance to make a disclosure of the lack of such insurance to the client in writing before or within a reasonable time after commencing the representation. The subcommittee sought to eliminate confusing language regarding coverage issues and focus on disclosure of lack of coverage. She noted that the subcommittee, in addition to proposing changes to the language of the Rule itself, was also proposing changes to comments 8, 9, and 10, and was recommending deletion of Comment 19 to RPC 1.5. Member Yates invited comments and questions from members of the Committee.

A member questioned whether it might be useful for the proposal to state there was no ongoing obligation for an attorney to make additional disclosures should coverage that was in existence at the commencement of the representation subsequently lapse or be terminated. The member suggested an amendment to proposed Rule 1.4(c) to change the timing of the disclosure to "on or before the representation beginning." Member Yates responded that the subcommittee's proposed language requiring that the disclosure be made "in writing before or within a reasonable time after commencing the representation" was similar to the timing language recently addressed in Rule 1.5, and suggested that the subcommittee's proposed language was more favorable because representation often begins before an actual writing is in place. A member commented that the language proposed by the subcommittee was acceptable and that the proposed amendment was not any clearer than the subcommittee's proposed language requiring disclosure "in writing before or within a reasonable time after commencing the representation . . . ." Another member recalled that another rule requires attorney

disclosure in the event reported professional liability insurance coverage lapses or is terminated or canceled. Member Yates followed up on that comment, noting that Rule 227 requires an attorney to provide notice to the Supreme Court if information previously submitted changes, and specifically noted that Rule 227(2)(b) requires disclosure of lapses in professional liability insurance within twenty-eight days. After comments by several additional members and those of member Yates, the member who originally proposed the amendment to the subcommittee's proposed language indicated that he had no strong feelings on the issue of his proposed amendment. Members Stark and Yates both noted that the subcommittee had not considered safe harbor language or the intersection of Rule 227 and RPC 1.5. Member Stark suggested that it might be helpful for the two rules to be consistent and to require an attorney to also disclose to the client when professional liability insurance was no longer in existence.

Member Kirsch expressed his concern about structuring the Rules of Professional Conduct in the manner proposed. He suggested that, if the goal was to require attorneys to have liability insurance, it should simply be made a requirement that all attorneys have professional liability insurance rather adopting a half-measure requiring disclosures by attorneys who do not have insurance. Member Yates noted that studies indicate that the average potential client assumes that attorneys have liability insurance. Member Stark noted that, as a consumer protection matter, potential clients are entitled to know if the attorney they propose to engage has insurance. Several members expressed agreement with member Kirsch's view but noted that the proposal under consideration was the best option because neither the Supreme Court nor the Committee was prepared to require mandatory insurance for all attorneys. The Chair agreed with those comments, noting that there was no overwhelming support for mandating insurance coverage for all attorneys. Another member noted that the Committee's prior discussions regarding the concept of mandatory insurance coverage had not resulted in a consensus that such provisions be adopted.

Following some brief additional discussion, a motion to adopt the subcommittee's recommendations was made by member Sudler and seconded by member Morris. There was no additional discussion on the motion. Twenty members of the members of the Committee voted to adopt the subcommittee's recommendations; four members voted in opposition to the motion. The motion carried. The Chair concluded the discussion on this topic by thanking the members of the subcommittee.

6. **Report on the Patent Practitioner Harmonization Proposal**.

Members Steinmetz and Rothrock provided a brief report on the subcommittee investigating harmonization of certain Rules of Professional Conduct for patent practitioners. Member Steinmetz noted that the subcommittee held a brief meeting and will hold an additional meeting in August. He advised that the subcommittee will provide an additional report at the Committee meeting on October 28, 2022.

7. Report on the PALS II Committee.

Judge Espinoza began his report by noting that the full proposal and report had been submitted to the Supreme Court and had been published on the Court's website together with a request for public comment. Judge Espinoza briefly reviewed the history of the development of the Licensed Legal Paraprofessional (LLP) program, noting that it has been in progress for approximately five years. He briefly reviewed the public policy reasons for the program and outlined the proposals of what LLPs would be permitted to do and the specific areas in which they would not be permitted to act. Judge Espinoza spoke briefly about the similar Arizona program, which is broader than the program proposed for Colorado, noting that Arizona licensed paraprofessionals can represent clients in certain criminal and civil matters. He stated that the progress in Arizona was encouraging and satisfactory.

Member Stark noted that presentations regarding the LLP program had been made to several groups and mentioned that, on August 9, the Colorado Bar Association would hold a town hall on the topic. He noted that subcommittee members engage in monthly roundtable discussions with groups in other states and Canadian provinces working on similar programs. He observed that the proposed Colorado program was unique and stressed the safeguards built into the proposed LLP program regarding licensure, limits of practice, passage of a bar examination, passage of an ethics examination, experience requirements, and educational requirements. Member Yates suggested that members of the Committee go online and review the lengthy full report and recommendations of the PALS II committee to the Court. The Chair also encouraged members of the Committee to review the entire report and recommendations published on the Supreme Court's website, noting that attachment 3 to the meeting materials was merely the executive summary of that full report. The Chair noted that the public comment period on the proposal concludes on September 14, 2022, and that the Court could possibly decide to proceed after that time and request that the Committee review and act upon proposed amendments to the Rules of Professional Conduct necessitated by the new program. The Chair noted that, if approved, the program would require statutory changes to the existing attorney-client privilege statute, changes to certain of the Rules of Professional Conduct, and the adoption of Rules of Professional Conduct for LLPs. Member Espinoza noted that the Rules of Professional Conduct for LLPs would likely be referred to the Advisory Committee and the Standing Committee on the Rules of Professional Conduct. Member Stark noted that implementation of the LLP program would require amendments to several of the Rules in the 5 series, as well as to the definition of "firm" in Rule 1.0. Several other members said they anticipated that the Court would hold a public hearing following the comment period.

Given the earlier discussion regarding Rule 1.4(a), a member inquired as to whether there would be any liability insurance requirements for LLPs. Member Yates noted that, at present, there is no proposal that LLPs have professional liability coverage, but that insurance markets in several jurisdictions were moving to include coverage for LLPs. She noted that the Supreme Court may require disclosure requirements for LLPs similar to the disclosure requirements for attorneys.

The Chair concluded the discussion by thanking the individuals leading the efforts for adoption of the licensed legal paraprofessionals program.

8. New Business.

No new business was presented for the Committee's consideration.

9. Adjournment.

The chair noted that the next meeting of the Committee will be held on October 28, 2022. Motion to adjourn was made and seconded. The meeting adjourned at 9:58 AM.

Respectfully submitted,

Thomas E. Downey, Jr., Secretary

Attachment 2

ANGELA R. ARKIN
ARBITER
Judicial Arbiter Group, Inc.
1601 Blake Street, Suite 400
Denver, CO 80202
Phone 303-572-1919
Fax 303-571-1115
aarkin@jaginc.com

Judicial Arbiter Group, Inc.
Denver/Colorado Springs

September 13, 2022

Mr. Chief Justice and Associate Justices of the Colorado Supreme Court
supremecourtrules@judicial.state.co.us

Re: 2022 Paraprofessionals and Legal Services II (PALS II) Subcommittee/Licensed Legal Paraprofessionals (LLPs) Proposal.

Dear Justices:

I am writing to support the 2022 Paraprofessionals and Legal Services II (PALS II) Subcommittee/Licensed Legal Paraprofessionals (LLPs) Proposal as approved and submitted to the Court by the Colorado Supreme Court Advisory Committee. Many Colorado citizens from a wide variety of backgrounds have contributed to this proposal: I am honored to be a part of this effort.

I encourage you to approve the proposal.

Additional Comments:

a. In response to the comments from other professionals that the financial "cap" for LLPs to be qualified to take cases from married clients with small marital estates ($200,000 net marital assets), is too low, based on the significant rise in real estate values since 2020, I would make the following suggestion:

    1. If a potential LLP client is married, and the net marital estate exceeds the "cap" of $200,000, but the value over the "cap" is equity in the marital residence (which is not available to the potential LLP client as cash), **the LLP should be able to assist that client without having to get prior Court approval if the total net equity in the marital estate does not exceed $300,000.**

2. I only suggest this because I am mindful of the time and energy that judicial officers would have to expend to approve every application for LLP assistance that would be over the "cap," but would not allow the party sufficient funds to hire a licensed attorney at current rates. The real estate market fluctuates, and values are often indeterminate and/or in dispute, so I would suggest this flexibility to address these concerns.

b. Regarding the amount of gross income an individual parent can earn and still qualify to hire an LLP, my suggestion would be to cap eligibility at $100,000 gross income from all sources (not "adjusted gross income" after paying maintenance and/or child support obligations). If this amount is in dispute, the party would simply be required to produce a recent paystub (or the prior year's tax return if self-employed) to the LLP at the intake meeting.

Thank you all again for your enthusiastic, ongoing support for access to justice in Colorado, and for the Paraprofessionals and Legal Services II (PALS II) Subcommittee/Licensed Legal Paraprofessionals (LLPs) project. The licensure of LLPs will provide essential, reasonably priced assistance to thousands of Colorado citizens who are attempting to resolve their divorce and/or parenting conflicts in our family courts, and will also therefore assist our currently overburdened judicial officers and staff to address these cases efficiently and equitably. I would be more than happy to speak with you if I can be of any further assistance.

Sincerely,

Angela R. Arkin
District Court Judge (Retired)

August 10, 2022

Colorado Supreme Court
Ralph Carr Judicial Center
2 East 14th Avenue
Denver, CO 80203

RE: Licensing of Legal Paraprofessionals

Honorable Justices:

I am much in favor of the formation and regulation of LLPs in the State of Colorado. While working many years for immigration attorneys, I assisted a couple clients who needed help to file their divorces pro se. My attorney boss was fine with it, and I was mentored by an attorney who gave up practicing family law on account of "too much drama." Since then, I estimate that I have filed about 50 pro se divorces.

I am clear that I am NOT an attorney; I know my limits in taking only simple cases. I am also a certified mediator with 70+ hours experience, much of that dealing with divorcing parents. I have personal experience with divorce, blended families and visitation issues. I am clear on the ethics rules on mediation, of course I never mix the two yet I'm able to explain the mediation process in detail to divorcing couples.

I volunteer my time to Project Safeguard, an organization that assists abused spouses to file their divorce paperwork. I am bilingual Spanish/English and this helps expand the number of people I can help. I would love to have the capacity to assist clients in the courtroom.

Such a license would be phenomenal for Colorado residents who can't afford an attorney and for the state's legal profession in general. Attorneys will always be needed; however, opening the way for LLPs provides more options for both clients and professionals alike.

Thank you for considering my opinion.

Sincerely,

Beverly Bravo
1375 S Gaylord St.
Denver, CO
303-921-2684

September 14, 2022

To the Honorable Justices of the Colorado Supreme Court,

I am writing to support the adoption of the proposed Implementation Plan of the Licensed Legal Paraprofessionals Program.

For over a year I have worked closely with the Supreme Court Outreach Committee formed under the PALS II Subcommittee. This has truly been an honor to be a part of this much needed program.

I have been a paralegal for over 9 years, I graduated from Arapahoe Community Colleges' ABA-approved program. I have worked in Criminal Defense, Plaintiff, and Insurance Defense, and for Denver District Courts. I currently work as the Paralegal Program Coordinator at Arapahoe Community College. While working at Denver District Court I witnessed the dire need of the litigants coming into the Court, that were mainly filing incomplete and incorrect Domestic paperwork which was causing a burden for the taxpayers and the Court staff to help these people.

I have no doubt that there is a need to help these unrepresented litigates. I believe that helping these people will increase the efficiency of the court.

I urge you to adopt the Implementation Plan of the Licensed Legal Paraprofessionals Program as requested by the Supreme Court Advisory Committee on the Practice of Law.

Thank you for your consideration.

Celeste Carpenter
9292 Ironwood Way
Highlands Ranch, CO 80129
303-489-4799

CBA Family Law Section, Executive Council

To: Colorado Supreme Court

From: Diane E. Wozniak, Chair of the Family Law Section Executive Council

Date: September 14, 2022

Re: Comments re: LLP proposal

The CBA Family Law Section Executive Council ("FLS EC") held two special meetings on August 26, 2022 and September 2, 2022 to discuss the Licensed Legal Professional ("LLP") proposal and provide feedback during the open comment period.

After much discussion and debate, the FLS EC conducted a vote. There were 25 council members present for the vote. Of the 25 present, 7 council members supported the proposal as written, 6 council members opposed the proposal entirely, and 7 council members opposed the proposal as written (but not entirely). The remaining 5 council members abstained from the vote.

The FLS EC had a subcommittee that was tasked with making recommendations to the FLS EC. The subcommittee could not reach consensus but remained active in attending meetings, including the Town Hall, and providing feedback to the FLS EC.

The FLS EC voted to provide feedback to the Colorado Supreme Court regarding the proposal with supporting comments as well as the concerns discussed by the FLS EC. The consensus was that such feedback may be helpful to the Supreme Court and the LLP Committee. The following feedback is not representative of the entire FLS EC's views, but rather a summary of different positions expressed during our meetings.

The FLS EC is supportive and actively encouraging each individual member/attorney providing their own individual comments during the public comment period.

<u>Summary of Concerns</u>:

- LLPs should not be able to be arbitrators or mediators.
- The focus on a money cap has no direct correlation with determining the complexity of child parenting issues
    - LLPs will provide subpar representation to individuals who have less money, even though their legal matters still may be complex.
    - LLPs will not provide equivalent representation to that of an attorney.
    - Domestic and family law cases are complex regardless of the financial position of the parties.

    - There are complex issues such as if an unrepresented individual owns a business that should not be handled by an LLP
- LLPs will dilute our license to practice law.
- There have been many programs implemented that still have not resolved the unrepresented problem such as Self-Represented Litigant Coordinators, limited scope, etc.
- A consumer survey was not completed so there was no indication of whether unrepresented individuals will actually hire LLPs (i.e. to survey the actual demand).
- There is no research or answers on how much this LLP program will cost to implement.
- The program will fail just as a similar program in Washington failed.
- Reviewing the success of state programs similar to the LLP program contemplated for Colorado is not a good comparison because such states have specific parenting time guidelines, where Colorado does not.
- There is no data that providing the public with LLPs as an option actually will be more affordable for unrepresented individuals in family law matters.
- That the LLPs take an open book test with only 50 questions is a concern.
- In terms of the investment of time and money into this program is that LLP's billable rates and ROI for individuals investing in their education will be 1) cost prohibitive to LLPs and 2) still too expensive for folks if this is really an access issue.
- There will be firms using this for marketing to feed their own firms, and many of those firms already have practitioners that are part of the problem with family law as it is. LLPs will make it worse.

<u>Summary of Suggestions</u>:

- Roll out the LLP program as a pilot project before applying it statewide.
- Set the cap at $100k for the value of the marital estate.
- Improving access to justice should be a multi-faceted approach that could include:
    - dedicated Family Law Courts
    - mandatory pro-bono hours
    - Fixing the state judicial forms
    - Revising the CLE ethics requirements to create a licensure specialization/certification for family lawyers and/or require family lawyers to take a certain amount of CLE credits dedicated to Family law and mental health issues
    - Require family law training for new judges before they are put on DR bench
- LLPs should be required to carry malpractice insurance.
- If there is a further iteration of this Proposal, the Family Law Section would appreciate receiving a copy for our members at least 2 months ahead of the comment cutoff date.
- LLPs should not do Qualified Domestic Relations Orders.

CCLP
Colorado Center
on Law and Policy

789 N. Sherman Street, Suite 300 · Denver, CO 80203
303.573.5669 · info@cclponline.org · cclponline.org

September 14, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: Licensed Legal Paraprofessional Program

To Whom it May Concern:

Thank you for the opportunity to comment on the Colorado Supreme Court Advisory Committee on the Practice of Law's proposed plan for implementation of the Licensed Legal Paraprofessional (LLP) Program. Colorado Center on Law and Policy (CCLP) is a non-partisan, not-for-profit advocacy organization dedicated to the vision that *every* Coloradan should have what they need to succeed. We stand with diverse communities across Colorado in the fight against poverty through research, legislation, and legal advocacy.

As the committee's implementation plan notes, data suggests that at least 86% of civil legal problems faced by low-income Americans were met with inadequate or no legal help in 2016.[1] That same year, funding for direct legal services came out to just $5.85 per eligible person in the United States.[2] It is estimated that only one-half of one percent of all attorneys in the United States provide civil legal services (that is, services for low-income people, usually provided at no or a reduced cost).[3] This works out to about one lawyer for every 9,000 Americans who qualify for legal aid[4]—a figure that does not include people whose incomes are too high to qualify for legal aid but who still cannot access affordable legal services. While we, along with members of the Colorado Bar Association, commend the efforts of attorneys performing pro bono legal work, we also know that the services provided are woefully inadequate. Indeed, it is estimated that even if every single lawyer performed one hundred additional hours of pro bono work next year, it would result in an extra hour of legal work per problem per household.[5]

[1] Legal Serv. Corp., *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* 6 (2017).
[2] Legal Servs. Corp., Fiscal Year 2017 Budget Request 2, https://perma.cc/L3FP-R7UE.
[3] Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 FORDHAM URB. L.J. 129, 140 (2010). Hadfield calculated this statistic using the number of attorneys documented in an early version of Legal Servs. Corp., *Documenting the Justice Gap in America: The Current Unmet Civil Needs of Low-Income Americans* 13, 21 (2009), https://perma.cc/B2D8-KV7P.
[4] Brooke D. Coleman, *The Vanishing Plaintiff*, 42 SETON HALL L. REV. 501, 517 (2012) (citing David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CALIF. L. REV. 209, 211 (2003)).
[5] Hadfield, *supra* note 3.

In part because of this data, CCLP writes with enthusiastic support of the proposed plan to create the LLP program. This proposal has the potential to reduce the cost burden of domestic cases for low-income litigants, and to increase their access to the legal system. While the impact of being represented is difficult to measure, what data has been collected shows a clear benefit to working through civil legal matters with support. In family law matters, studies have shown that represented mothers are nearly twice as likely to be awarded custody of their children,[6] and two and a half times more likely to obtain a protective order in cases involving domestic violence[7] than unrepresented people. A meta-analysis of studies that measured the effect of representation found that litigants who are represented by attorneys are up to 2353% more likely to receive favorable outcomes.[8] LLPs would provide much of these benefits even in their limited capacity—as we have seen from the preliminary data from the state of Washington. That data suggests that the services provided by the limited license legal technicians program improved legal outcomes.[9]

CCLP would also like make note of our concern of the unnecessary and inequitable barriers that requiring a character and fitness admissions process for LLPs will put on people seeking to become an LLP. The complexity and length of the character and fitness application makes it hard for applicants to know if they will be disqualified for the vague and arbitrary determination that they lack "good moral character" before spending time, expense, and effort on their application.[10] We suggest that the committee consider how someone's history might affect their access to the LLP program and the nexus (or lack thereof) between most criminal offenses and the LLP profession. *At most*, past offenses should only be considered if they directly relate to the specific nature and requirements of being an LLP, and only if the offense took place within a clearly articulated, limited amount of time prior to the application. Like other states, Colorado should incorporate a system for allowing potential applicants to petition the Board to determine whether their record would be disqualifying before they begin the costly process of applying.[11] Additionally, a past criminal offense should not be the sole basis for rejection, and

---

[6] The Women's Law Ctr. of Md., *Families in Transition: A Follow-Up Study Exploring Family Law Issues in Maryland* 48, tbl.16 (2006), https://perma.cc/PSL4-J2AE.

[7] Jane C. Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 AM. U. J. GENDER SOC. POL'Y & L. 499, 511–12 (2003).

[8] Rebecca Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise Through Lawyers' Impact*, 80 AM. SOC. REV. 909, 920 (2015). Note that the 2352% figure is not a typographical error.

[9] Clarke, Thomas and Sandefur, Rebecca L., *Preliminary Evaluation of the Washington State Limited License Legal Technician Program* (March 2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2949042; Smith, Nicole and Solomon, Jason, *The Surprising Success of Washington State's Limited License Legal Technician Program*, Stanford Center on the Legal Profession (April 2021), https://law.stanford.edu/publications/the-surprising-success-of-washington-states-limited-license-legal-technician-program/.

[10] *See* R Street, *How Occupational Licensing Laws Harm Public Safety and the Formerly Incarcerated*, R Street Policy Study No. 143 (2018).

[11] *See* Nick Sibilla, *Barred from Working: a Nationwide Study of Occupational Licensing Barriers for Ex-Offenders*, Institute for Justice, 6 (Aug. 2020), https://ij.org/wp-content/uploads/2020/08/Barred-from-Working-August-2020-Update.pdf. The Institute for Justice gave Colorado an "F" grade for its lack of due process for justice-involved people seeking professional licensing opportunities, *id.* at 21-22, while other states like "Indiana, Iowa, Mississippi, and Missouri all received perfect scores," *id.* at 6.

offenses that are eligible for sealing under Colorado law should not be considered at all. *See* § 24-72-706. Our legal profession needs dedicated workers to assist a vastly underserved population. As our own Attorney General and Executive Director of the Department of Corrections have acknowledged, employment opportunities increase public safety and create stability for justice-involved people.[12] The Court should not equate past mistakes with a person's ability to provide a much-needed service.

In an ideal world, the LLPs serving low-income people with family and domestic legal issues would come from the communities they are serving. This is especially relevant when one considers the deeply personal nature of the issues that are often raised in these types of cases, and the cultural competency required to be an effective representative in this context. The Court should approve this proposal, and focus on reducing the barriers faced by potential applicants to the program.

Thank you once again for the opportunity to provide comments.

Sincerely,

/s/

Katie Wallat
Senior Attorney
Colorado Center on Law and Policy

kwallat@cclponline.org

[12] Elise Schmelzer, *Colorado Attorney General Wants to Reduce Crime by Helping People Leaving Prison Find Jobs*, THE DENVER POST (Nov. 10, 2021, 6:00AM), https://www.denverpost.com/2021/11/10/prison-jobs-crime-prevention/.

IAALS INSTITUTE for the ADVANCEMENT of the AMERICAN LEGAL SYSTEM
UNIVERSITY of DENVER

September 14, 2022

Colorado Supreme Court
2 E. 14th Ave.
Denver, CO 80203
supremecourtrules@judicial.state.co.us

Re: Comment in Support of the Colorado Licensed Legal Paraprofessionals Program

Dear Justices of the Colorado Supreme Court:

On behalf of IAALS, the Institute for the Advancement of the American Legal System, we wish to commend the Colorado Supreme Court, the Advisory Committee on the Practice of Law, and the Providers of Alternative Legal Services (PALS) II Subcommittee for the support and extensive effort that has been devoted to developing this plan for a legal paraprofessional program to combat the access to justice crisis.

IAALS is a national, independent research center at the University of Denver dedicated to continuous improvement of the civil justice system. 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 so as to achieve impact. We are a nonpartisan organization that champions people-first reforms to the legal system and the legal profession. We bring this approach to bear in our work in the area of allied legal professionals and offer the following lessons learned from around the country for the court's consideration. Thank you for considering our feedback and for your thoughtful work to ensure access to justice for the people of Colorado.

The Need for a Licensed Legal Paraprofessional Program

A well-documented and critical access to justice problem exists in the U.S. today. According to a national 2021 joint study—*US Justice Needs*—by IAALS and HiiL, The Hague Institute for Innovation

of Law, two-thirds of Americans faced at least one legal issue in the past four years.[1] Of the issues experienced, 46 percent either have no expected future resolution or were resolved in a way perceived as unfair. A Pew Research Center study found that, in 2018 alone, less than half of all U.S. households that experienced legal issues sought relief in court.[2] And those who sought such relief largely did so on their own. Studies suggest that over 70 percent of civil[3] and family[4] law cases have at least one party that is self represented. And, while legal aid services and pro bono work are critical in mitigating this issue, reliance on lawyers and these programs is not enough. According to law professor and economist Gillian Hadfield, it would cost roughly $70 billion to provide just one hour of legal help to all the households in America currently facing legal problems.[5] And relying on pro bono work alone is just as unrealistic. If every lawyer in the country did 100 hours more of pro bono work on top of what they already do, this would provide just 30 minutes of legal help to all the households in America currently facing legal problems.[6] (The average amount of pro bono hours provided by the 52 percent of lawyers who provide such services is around 37.[7])

Our current regulations constrict new pathways to accessible legal services and leave consumers with few alternatives. With few exceptions, anyone other than a lawyer providing legal services is engaging in the unauthorized practice of law and can be punished, regardless of whether those services actually help consumers. One solution is allowing a new category of legal professionals to provide legal advice in certain areas of the law as part of a regulated program with education and training requirements. A handful of states have implemented such programs, starting with Washington in 2012.[8]

---

[1] THE HAGUE INST. FOR INNOVATION OF LAW & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 31 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.
[2] THE PEW CHARITABLE TRS., HOW DEBT COLLECTORS ARE TRANSFORMING THE BUSINESS OF STATE COURTS 4 (2020), https://www.pewtrusts.org/-/media/assets/2020/06/debt-collectors-to-consumers.pdf.
[3] NAT'L CTR. FOR STATE CTS., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS IV (2015), https://www.ncsc.org/__data/assets/pdf_file/0015/25305/civiljusticereport-2015.pdf.
[4] NAT'L CTR. FOR STATE CTS., FAMILY JUSTICE INITIATIVE: THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS 20 (2018), https://www.ncsc.org/__data/assets/pdf_file/0018/18522/fji-landscape-report.pdf.
[5] [5] GILLIAN K. HADFIELD & JAMIE HEINE, LIFE IN THE LAW-THICK WORLD: THE LEGAL RESOURCE LANDSCAPE FOR ORDINARY AMERICANS 37 (2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2547664.
[6] *Id*.
[7] AM. BAR ASS'N STANDING COMM. ON PRO BONO & PUB. SERV. AND THE CTR. FOR PRO BONO, SUPPORTING JUSTICE: A REPORT ON THE PRO BONO WORK OF AMERICA'S LAWYERS 6 (2018), https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.pdf.
[8] Utah implemented its program in 2018. Arizona and Minnesota implemented their programs in 2021. The Oregon Supreme Court just approved the implemented of its program in July 2022.

Over the past year, IAALS has researched the landscape of existing and proposed legal paraprofessional programs across the country as part of its *Allied Legal Professionals* project. One thing is clear: there is national momentum to make these programs commonplace. To date, there are four states with active programs and around 10 other states with proposals to create such a program. And while these programs are relatively new, with only Washington existing for over five years, the data that has been gathered shows that these legal paraprofessionals are providing competent legal services at a reduced cost. In Washington, for example, their Limited License Legal Technicians (LLLTs) who work at law firms bill around half the hourly rate of attorneys.[9] And attorneys have even reported that LLLTs at their firms were more knowledgeable about family law and required less training than new attorneys.[10] Minnesota's program is different from the other active states in that it is a pilot program and their legal paraprofessionals require attorney supervision, but the supervising attorneys have touted their work and called them "careful, serious, and excellent."[11] With the implementation of the Licensed Legal Paraprofessional (LLP) program, Colorado will join these states to make legal services more affordable and address this crisis.

Experience Across the United States Supports Independent Paraprofessionals Who Provide Expanded Services

The experience from other states urges the establishment of independent paraprofessionals who can be effective and successful in service to their clients. IAALS supports the recommendation that LLPs would not need to be supervised by an attorney. Washington, Utah, and Arizona have all created legal paraprofessional programs where attorney supervision is not required. In each of these programs, very few complaints against legal paraprofessionals have been filed, showing that legal paraprofessionals are competent and can provide legal services without the supervision of an attorney. Additionally, this freedom will provide legal paraprofessionals with the ability to work at a pace that is in their client's

---

[9] JASON SOLOMON & NOELLE SMITH, THE SURPRISING SUCCESS OF WASHINGTON STATE'S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM 20 (2021), https://law.stanford.edu/wp-content/uploads/2021/04/LLLT-White-Paper-Final-5-4-21.pdf.
[10] *Id* at 12.
[11] STANDING COMM. FOR LEGAL PARAPROFESSIONAL PILOT PROJECT, INTERIM REPORT AND RECOMMENDATIONS TO THE MINNESOTA SUPREME COURT 6 (2021), https://www.mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Administrative-Interim-Report-and-Recommendations-from-the-Standing-Committee-for-LPPP.pdf.

best interest, as opposed to the likely bottleneck that would result from needing an attorney to review their work.

The Implementation Report and Plan highlights that LLPs will be able to complete numerous tasks including completing and filing standard pleadings, representing in mediation, and answering factual questions during court hearings. IAALS has conducted multiple studies with self-represented litigants where we heard from them on what they felt were the most difficult aspects of their divorce/separation case. One of the most common struggles self-represented litigants faced was filling out their documents, so allowing LLPs to help their clients with this process will provide a huge relief.[12] Self-represented litigants also struggle with the different oral aspects of a case, including mediations and hearings.[13] LLP clients will greatly benefit from a trained and competent professional helping advocate for them during mediations and answering factual questions during their hearings.

Experience around the country also supports LLPs providing broader support at hearings. The more that LLPs can help create a barrier and reduce stress between the two parties, the more likely all relevant information will be provided to the court to achieve a just outcome. While clients will surely benefit from having an LLP at their hearing to answer factual questions, they will undoubtedly struggle with the rest of the hearing. In family law cases, whether the issue is divorce, child support, or protection orders, there is often an unequal power dynamic that makes confronting the other party difficult and distressing. Evidence exists to show that LLPs would be up to the task of full representation in court. Both Arizona and Minnesota allow their legal paraprofessionals to fully represent clients in court, and while Minnesota's program requires their legal paraprofessionals to be supervised by an attorney, the attorney is not required to supervise during the hearing itself. To date, there have been no complaints about Arizona LPs' performance in court, and surveys show that Minnesota's legal paraprofessionals are up to the task. The supervising attorneys have had no complaints about their performance in court, and judicial officers who have heard cases with legal paraprofessionals have said that they "displayed appropriate decorum in the courtroom and knew the applicable court rules."[14] Minnesota's legal paraprofessionals have fewer requirements to enter the program than Colorado's LLPs would have, and

---

[12] NATALIE ANNE KNOWLTON ET AL., CASES WITHOUT COUNSEL: RESEARCH ON EXPERIENCES OF SELF-REPRESENTATION IN U.S. FAMILY COURT 32 (2016), https://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf.
[13] *Id*. at 34.
[14] STANDING COMM. FOR LEGAL PARAPROFESSIONAL PILOT PROJECT, *supra* note 11, at 7.

Colorado can include a requirement of courtroom experience—a requirement not even given to attorneys.

IAALS supports the recommendation that LLPs provide legal services in family law as it is a critical area with many people in desperate need of legal help, but we hope that this court will consider expanding beyond family law as this program gets underway because there is great need in other areas—and this limited scope could undermine the program's success. As mentioned above, family law is one of the practice areas with the highest percentage of self-represented litigants. The PALS II Subcommittee notes that LLPs can assist on a variety of cases within family law, including dissolution, legal separation, allocation of parental responsibility (APR), invalidity of marriage, parentage (in the context of dissolution or APR) petitions, protection orders, motions for remedial contempt citations, post–decree modifications of APR, and child support and/or maintenance. This variety of case types within family law will allow for more people to receive help on their legal issues, and it helps make the program more viable by providing LLPs with a larger pool of potential clients.

A focus on family law will help fill a huge gap of current unmet needs, but there is a legitimate concern around limiting the scope of practice to one area in the law. Washington's program was sunset due to "the overall costs of sustaining the program and the small number of interested individuals."[15] Washington limited its program to family law, and while there is no consensus on why exactly there was a small number of interested people, the narrow scope of practice has been considered a prominent reason. The other three states with active programs—and Oregon, whose supreme court recently approved their program—have all included multiple practice areas. And while these states are also struggling to attract a large number of candidates, in their short tenure they have been able to attract more people early on to their programs than Washington was able to achieve. As the scope of practice increases, so does the pool of interested candidates and its viability. IAALS urges this court to consider expanding the scope beyond family law—now or in the future—to address both the needs of the people and the program to ensure success for both.

Broaden Eligibility to Reach the Missing Middle

---

[15] Letter from Debra L. Stephens, C.J., Washington Supreme Court, to Stephen R. Crossland et al., Chair, Ltd. License Legal Technician Bd. (June 5. 2020), https://www.wsba.org/docs/default-source/licensing/lllt/1-2020-06-05-supreme-court-letter-to-steve-crossland-et-al.pdf?sfvrsn=8a0217f1_7.

LLPs have the potential to increase access to legal services for one of the largest segments of the access to justice gap—those who cannot afford a lawyer, but who also do not qualify for legal-aid assistance. The Colorado Access to Justice Commission noted in its recent *Findings and Recommendations Following the 2021 Statewide Listen & Learn Tour* that one of the key barriers to access to justice for the people of Colorado is the lack of affordable legal advice.[16] This access to justice gap is not just prevalent with lower-income people though, as 40 to 60 percent of middle-income legal needs go unmet.[17] And according to the *US Justice Needs* survey, family problems are one of the most expensive and time-consuming to resolve.[18] While the LLP program is critical to address this need, it could even be broadened beyond the $200,000 cap on net marital assets. This cap will exclude a large portion of Colorado's population who are in dire need of legal help and who cannot afford an attorney. Another issue is one that the PALS II Subcommittee highlights in its report: that there will be times where LLPs learn of additional information in the middle of a case that push the total of marital assets over $200,000. The subcommittee suggests in the report that a court can allow representation to continue for good cause, but if good cause is not shown then the client is out of luck in the middle of their case.

Neither Washington, Utah, Arizona, nor Minnesota—all states that allow their legal paraprofessionals to represent clients in family law cases—have put a monetary limit on this practice area, and none of these programs are riddled with complaints by clients. Additionally, none of these states have required their legal paraprofessionals to decline representation when it is apparent that it would raise issues of "significant complexity." This could put LLPs in a compromising position where they take on a case they feel competent to handle but that the court later determines is significantly complex. Data from both Washington and Minnesota, mentioned above, shows that legal paraprofessionals can handle family law cases, and we believe that Colorado should follow the data. IAALS urges this court to remove the $200,000 limit along with the disqualification of "significantly complex" cases to reach a wider margin of the population that is currently priced out of receiving legal help. If this court feels the need to keep

---

[16] CO. ACCESS TO JUST. COMM'N, FINDINGS AND RECOMMENDATIONS FOLLOWING THE 2021 STATEWIDE LISTEN & LEARN TOUR 17 (2022), https://www.coloradoaccesstojustice.org/_files/ugd/c659b2_2f35126a842a49f0abec4ead5ede26da.pdf.
[17] Kathryn Graham, *Increasing Access to Legal Services for the Middle Class*, 33 THE GEO. J. OF LEGAL ETHICS 537, 537 (2020), https://www.law.georgetown.edu/legal-ethics-journal/wp-content/uploads/sites/24/2020/09/GT-GJLE200022.pdf.
[18] THE HAGUE INST. FOR INNOVATION OF LAW & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *supra* note 1, at 30.

LLPs disqualified from handling "significantly complex" cases, we urge this court to define this term to provide clarity for LLPs on what cases they are permitted to handle.

Conclusion

The medical field has a long and successful history of creating and expanding new categories of professionals to help expand access. Nurse practitioners and physician assistants have grown in numbers and status in recent decades. Law has been much slower to pursue this path, but there is now growing momentum around the country in support of such programs. The recommendations provided in the PALS II Implementation Report and Plan represent a critical effort to address the access to justice crisis in Colorado, and IAALS applauds the PALS II Subcommittee for its leadership, research, outreach, and dedication to creating an effective program. Family law has one of the highest rates of self-represented litigants, and those litigants struggle with many of the tasks with which LLPs will be able to help. The purpose of this program is to provide legal help for people who cannot afford the services of an attorney, and the fewer restrictions we place on LLPs, the better Colorado will be able to achieve this goal.

Sincerely,

Michael Houlberg
Manager, IAALS

Brittany K.T. Kauffman
CEO, IAALS

MARK COHEN, J.D., LL.M.

Lawyer

CONTRACTS, BUSINESS, REAL ESTATE, HOME INSPECTION LAW, INTELLECTUAL PROPERTY, AGRICULTURAL LAW AND RELATED LITIGATION
PLAIN ENGLISH CONSULTING / CLE AND BUSINESS EDUCATION SPEAKER

September 12, 2022

Via email only

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

RE: Comment on PALS Implementation Report and Plan

Justices of the Supreme Court:

I favor allowing paraprofessionals to assist people in dissolution actions.

I no longer practice in this area, but I receive many phone calls from people seeking counsel in dissolution matters. Frequently, these people lack funds for a lawyer. I believe allowing paraprofessionals to assist such people will lead to better outcomes for the parties and their children. It will also improve judicial efficiency by reducing the amount of time judges and magistrates spend struggling with *pro se* filings and educating *pro se* parties.

While I strongly favor this program, I offer one suggestion. Section (2)(f)(xv) of the proposed rule allows paraprofessionals to advise clients regarding the need for a lawyer to review complex issues that may arise in a matter. The proposed rule does not specifically address situations in which one party alleges the other is hiding assets or income, or in which one party seeks to impute income to the other. These issues often involve self-employed people and may require consideration of veil piercing and similar issues. The court may wish to consider whether to add such matters to the list of matters paraprofessionals are not allowed to represent clients in. See, Section (2)(e) of the proposed rule, or to otherwise address these issues.

Thank you for your consideration.

Sincerely,

Mark Cohen

MARK COHEN

START EARLY. WORK HARD. FINISH. ®
P.O. BOX 19192
BOULDER, COLORADO 80308
(303) 638-3410
WWW.COHENSLAW.COM

To: Supreme Court Advisory Committee on the Practice of Law

Re: Licensed Legal Paraprofessional position

Date: August 7, 2022

This sounds like a great idea and it's a long time coming. The article in the Denver Post today sold me on the idea when it stated: "about 73% of litigants in domestic relations matters represent themselves". Certainly having a paraprofessional that one can afford is better than having no one except oneself.

Thank you.
Karen Conover
1401 Wewatta Stl
Denver, CO 8020

Richard L. Corbetta, LLC
Attorney at Law

7022 Welford Place
Castle Pines, Colorado 80108
(303) 520-9093
rcorbetta@corbettalawfirm.com

September14, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: PALS Implementation Report and Plan

To the Honorable Justices of the Colorado Supreme Court:

I am writing to support the adoption of the proposed Implementation Plan (Implementation Plan) of the Licensed Legal Paraprofessionals Program.

I have been a practicing attorney in Colorado for over 30 years and, in addition, I have been a member of the Paralegal Program faculty at Arapahoe Community College for almost 10 years and, since 2018, the Program Chair.

For over a year I have worked closely with the Supreme Court Advisory Committee on the Practice of Law as a member of one of the several working groups (Licensure and Qualifications) formed under the auspices of the Advisory Committee's PALS II Subcommittee.

The dire situation faced by unrepresented litigants in Colorado courts and the urgent need for additional resources to assist unrepresented litigants in family law matters is well documented. There is no doubt that steps to improve access to justice are necessary and overdue. Adopting the Implementation Plan under consideration would be a measured but significant step in the right direction.

Licensing paraprofessionals to represent family matter litigants, albeit in a limited manner would, unquestionably, expand access to justice for many Coloradans and would immediately address, if not entirely solve, some of the pressing issues faced by unrepresented litigants struggling in litigating family law matters.

Having participated in a small way in the development of the Implementation Plan I can say with confidence that the Implementation Plan was conceived and developed by a committed and organized team with remarkable professional expertise, experience, and thoughtfulness. Not only

does the Implementation Plan address directly an important social issue, but it is also as well positioned to succeed.

I urge, without qualification, that the Court adopt the Implementation Plan of the Licensed Legal Paraprofessionals Program as requested by Supreme Court Advisory Committee on the Practice of Law.

Sincerely,

/s/ Richard L. Corbetta

Deborah Hamilton
Strategic Services Librarian – Law Collection
Pikes Peak Library District
20 N. Cascade Ave.
Colorado Springs, CO 80903

August 23, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: PALS implementation report and plan

To Whom It May Concern:

I am writing to express my support for the PALS implementation report and plan. I am the Law Librarian for Pikes Peak Library District (PPLD) and I also have served as the Chair of the Board of Directors for the Pikes Peak Pro Bono and Justice Center (The Justice Center) from June 2019 through October 2022. I am currently Vice Chair for the Fourth Judicial District's Local Access to Justice Committee. Through my various roles connecting people with legal services, I know that there is a strong need for increased services in the area of family law.

As a librarian working with the public, the primary users of the legal research collection at PPLD are self-represented litigants. And at least half of those are people dealing with family law issues. Most of these people cannot afford traditional legal representation and have difficulty securing any type of legal aid due to the high demand for pro bono and modest means services. As a librarian, I am limited in the types of help that I can offer to these patrons. And while I can connect people to legal information and services, it still is not enough for most people. Our library participates in the Virtual Pro Se Clinic program started by Ric Morgan. Since 2017, we have offered monthly clinics out of our library in Fountain, CO. Each year at least a quarter to over half of the attendees are coming in to speak with the attorney regarding a domestic matter.

As Chair of the Board of the Directors for The Justice Center, I see this problem from a legal aid perspective. Our non-profit, which is a charitable subsidiary for the El Paso County Bar Association, offers free and low-cost legal representation as well as weekly call-in clinics. Our pro bono and modest means representation programs are staffed solely by volunteer attorneys. We have a long waitlist of clients needing representation. The vast majority of qualified applicants waiting for attorneys are people with a family law issue. Currently we have 29 pro bono cases and 10 modest means cases waiting for family law attorneys. In comparison, we only have four landlord tenant cases waiting for and four probate cases waiting for attorneys. Our waitlist never goes away, and we struggle with having enough volunteers to fill the need in our community. Having a low-cost option for people to resolve their family law issues would help many of these people.

Lastly, I see this need in the work that our local Access to Justice Committee does. We recently held Family Law Day. On one day, we had 87 people attend our free law clinic. We had two cases come to full agreement through our mediation program. Our in-person classes were standing room only. For the website that we built to house videos since we knew not all people would be able to attend an in-

person event, we had over 1,600 video views. Our most video was on “How to Present Your Case.” Again, this demonstrates the need that many people have in how to best move through the court system to resolve their family law issues.

Thank you for your time and consideration in developing this potential program. From my perspective, I feel that having LLPs would greatly help to ease the strain on the legal aid resources in our state and would help the courts to run more efficiently given the large number of self-represented litigants in family law cases.

Sincerely,

Deborah Hamilton

August 4, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: PALS / LLP Public Comment

To the Court –

I write in favor of the establishment of the LLP initiative in Colorado. I believe this program would be instrumental in serving the needs of individuals who need legal aid but cannot afford it. The system, as it stands, gives preference to those who can support legal aid. More often than not, women are left without representation and accepting situations that would otherwise be unacceptable had they the resources to afford assistance. While there are legal services accessible to those with particularly low incomes, I've found that the lower middle class is often left hanging, having just enough money to pay their bills, but too much to qualify for free assistance and too little to afford legal assistance. The LLP initiative would help rectify the situation by equaling the playing field for these individuals.

Thank you for accepting this comment in your review.

Best,
Tina L. Edelein

From:	Bridget Finn
To:	supremecourtrules
Subject:	[External] Licensed Legal Paraprofessionals (LLPs)
Date:	Monday, August 22, 2022 9:23:59 AM

To whom it may concern:

As a practicing domestic relations attorney, I am strongly opposed to the proposed change that would allow legal professionals to act in a legal capacity. This is an insult to our legal profession and diminishes the role that attorneys play in cases. I understand that the intention is to bridge a gap that would provide pro se parties some form of representation, however, I do not think this is appropriate. Pro Se parties do not retain largely because they can't afford to. I don't think retention of a legal representative will improve just because it is a paraprofessional as there is still a cost associated with the same. We have trained extensively to be qualified to do this work and it is insulting to think that law school was not necessary to do our job.

Bridget Finn

Gendelman Klimas, Ltd.
Where Family is Everything

517 E. 16th Avenue
Denver, CO 80203
(720) 213-0687
GendelmanKlimas.com

Dated: September 14, 2022

Re: Comments Regarding Licensure of Legal Paraprofessionals, Submitted by Gendelman Klimas, Ltd.

VIA EMAIL ONLY
Colorado Supreme Court
2 East 14th Avenue
Denver, CO 80203
supremecourtrules@judicial.state.co.us

To Whom It May Concern:

On behalf of Gendelman Klimas, Ltd. ("GK"), a Colorado law firm that practices family law, trust, and estate law, this letter is written in support of the Colorado Supreme Court's plan to implement the licensure of legal paraprofessionals ("LLP's") to provide certain types of limited legal services in domestic relations cases. We believe that this program, if enacted and monitored appropriately, could effectively address the most significant barriers in promoting access to justice in domestic relations matters. GK recognizes that paralegals/non-attorney legal paraprofessionals are the backbone to any law firm and are often sufficiently capable, if not more capable, to manage uncomplicated and uncontested cases and to provide substantive advice than an entry level associate attorney.

With well over half of litigants in domestic relations matters self-represented, lacking the benefit of competent representation and/or effective access to legal information and advocacy, the proposed LLP program would increase judicial economy, ease bottlenecks in case management, streamline uncomplicated and uncontested cases, and likely lead to increased public trust of the courts for matters that meet criteria. For these reasons, GK welcomes the implementation of a limited licensure opportunity for the State of Colorado and would commit to support its experienced non-attorney legal professionals participating in the program.

GK anticipates that LLPs would quickly become an integral service to many domestic relations law firms. LLPs are the natural pre-litigators to attorneys and would serve as a cost-effective solution for the many potential clients that are unable to afford the services of an attorney or who are in need of services that can be provided by less expensive non-attorney professionals.

One concern that we wish to address is any perception that LLPs would be unable to competently represent individuals in qualifying domestic relations cases. As those reading this letter well know, law school teaches students *next to nothing* about the actual practice of law or representation of a client. It is not until an attorney spends time in practice that they learn how to interact effectively with clients, run a practice, manage their COLTAF account, appear in court, prepare for trial, etc. Non-attorney legal professionals, even absent any licensing process, typically have more competence in these matters than entry-level attorneys, who are immediately able to represent all clients in all types of cases under their licenses. Any belief by attorneys that LLPs would lack the competence to represent clients is

517 E. 16th Avenue
Denver, CO 80203
(720) 213-0687
GendelmanKlimas.com

likely ego-driven or based upon a fear of competition, neither of which are legitimate objections to the LLP program.

Experienced, non-attorney legal professionals that work in law firms, under the supervision of licensed attorneys, already observe strict personal and professional ethical standards, exhibit various levels of discretion, and adhere to best practices of their field. Non-attorney legal professionals understand and work with court rules, engagement agreements, conflict checks, intakes, trial preparation, limited statutory interpretation, legal research, legal analysis, etc.

The proposed practical experience requirements for LLPs include 1,500 hours of hands-on legal experience with 500 of those hours being specific to family law. This requirement offers more practical experience than a licensed attorney is required to demonstrate prior to assuming their first case. This experiential requirement, coupled with ongoing CLE requirements, is likely sufficient to meet the needs of the intended cases and clients.

With this said, GK does have three concerns regarding the proposed LLP rules that it wishes to address. First, we are concerned that LLPs would be able to practice limited services independently, without ever receiving supervision from a licensed attorney or experience working specifically for a law firm. Currently, the services that LLPs would provide are only found at law firms and are provided by licensed attorneys. Thus, law firms are currently the only venue for non-attorney legal professionals to gain experience actually working with clients, systems, software, etc., in the same way that they would as LLPs. Until there are licensed LLPs that have been practicing for several years, we believe that it would benefit LLP applicants to be required to complete their 1500 hours of experience in a law firm or court setting, subject to the supervision of a licensed attorney, as a condition of becoming licensed. Over time, as independent LLP practices emerge, providing more opportunities for LLP applicants to gain necessary experience, this requirement could be relaxed.

Our next concern has to do with COLTAF management as applied to LLPs. As Attorney Regulation is well aware, most legitimate disciplinary issues stem from COLTAF mismanagement. While LLPs should be required to manage a COLTAF account, there is concern that with LLPs likely having lower profit margins and less revenue per hour than an attorney, the likelihood of COLTAF mismanagement may be increased. The mismanagement of COLTAF funds severely impacts public trust and the perception of the legal profession. GK fears creating a whole new class of COLTAF account holders, and how this may impact COLTAF mismanagement, given the existing frequency of COLTAF mismanagement issues and related disciplinary actions. GK would encourage the Supreme Court to consider a requirement that all LLPs complete the Supreme Court's Trust Accounting School program as a condition to becoming licensed. In fairness, GK would also support the Supreme Court making that program a requirement for all attorneys prior to operating or managing a COLTAF account.

Our third concern has to do with LLPs carrying professional liability insurance. We believe that all legal professionals serving the public should be required to carry professional liability insurance, including attorneys. LLPs should also be required to carry professional liability insurance, in an effort to promote public trust and to protect litigants.

517 E. 16th Avenue
Denver, CO 80203
(720) 213-0687
GendelmanKlimas.com

The Supreme Court has sought specific comments regarding the $200,000 cap on net assets for cases that LLPs may represent a client. GK believes that this cap is appropriate but has concerns regarding LLPs handling cases that involve real estate, which would likely comprise many of the cases at the higher end of this cap, as discussed herein.

The Supreme Court has sought specific comments regarding how to define the scope of LLP practice as it relates to the level of complexity of the matter or whether the matter involves a contested issue of law. This presents a particular challenge, as domestic relations cases often seem uncomplicated at their inception and can become complex and contentious quickly, often without facts that justify the level of conflict. GK makes three recommendations in this regard for the Court's consideration.

First, complicated cases will usually involve the drafting of pleadings that do not fit in the confines of JDF forms and require customized drafting, often indicating that the matter is legally complex and unordinary. JDF forms are sufficient for any uncomplicated and routine domestic relations case. While LLPs will be competent to draft their own pleadings, requiring that LLPs only use JDF, or other pre-approved forms, could significantly help to ensure that LLPs are not involved in complex cases, arguments, or issues of law.

When a party owns real estate in a dissolution of marriage proceeding, the division of that real estate often requires the drafting and execution of deeds, promissory notes, deeds of trust, and the review of mortgage and refinance documents. It is unclear if the scope of LLP practice is intended to also cover these real estate activities that are related to domestic relations matters, as almost any case involving real estate will exceed the $200,000 net asset cutoff. In addition, matters involving real estate are typically not unopposed and are inherently complex, requiring an understanding and ability to research and interpret ancillary areas of law, including taxation, as well as drafting of real estate related documents. As such, even though many LLPs may be competent to address these issues, it would seem that domestic cases involving real estate are beyond the intended scope of LLP practice due to their legal complexity.

Third, any matter in which the following issues are presented are inherently complex and may be outside the intended scope of LLP practice: imputations of income; cryptocurrency; mineral and water rights; trust interests; business ownership (other than sole proprietorships); separate property tracing; interspousal gifts; gifts from family members or others; pensions; unqualified retirement benefits; executive compensation; RSUs; stock options; qualified domestic relations orders; dissipation/marital waste; taxation; cases involving non-parent allocations of parental responsibilities; confirmatory adoptions; parenting time disputes; contempt; common law marriage; putative spouses; emergency motions to restrict parenting time; motions to prevent child abduction; grandparent/great-grandparent visitation; cases involving child and family investigators; cases involving parental responsibilities evaluators; cases involving a child's legal representative; cases involving guardians *ad litem*; and cases involving or requiring the use of retained experts or expert witnesses. Over time, we would hope that the LLP program would develop to the extent that *some* of the above-mentioned matters could be competently handled by LLPs, through the creation of more specific and robust training, standards, and forms.

Gendelman Klimas, Ltd.
Where Family is Everything

517 E. 16th Avenue
Denver, CO 80203
(720) 213-0687
GendelmanKlimas.com

In summary, GK strongly supports the proposed LLP program and is excited for this revolutionary solution to help Coloradoans receive greater access to justice in domestic relations matters. With our concerns in mind, we urge the Supreme Court to adopt the recommendations of the PALS implementation report and plan, while considering some modifications in light of the concerns and feedback provided above.

GENDELMAN KLIMAS, LTD.

Laurence Gendelman, Esq. #48790
Partner

Nick Klimas, Esq. #48658
Partner

Sarah Mitchell, Esq #50245
Senior Associate Attorney

Kaitlyn Davis, Esq. #55908
Associate Attorney

Kyle Melchior, Lead Paralegal

Kiersten Fisher, Paralegal

Sarah Walker, Paralegal

Laura Roth, Human Resources and CFI Assistant

517 E. 16th Avenue
Denver, CO 80203
(720) 213-0687
GendelmanKlimas.com

Bianca Nuanes
Bianca Nuanes (Sep 14, 2022 11:47 MDT)

Bianca Nuanes, Client Services Manager

Paige Palladino
Paige Palladino (Sep 14, 2022 11:48 MDT)

Paige Palladino, Law Clerk

The LLP program is imperative to implement in Domestic Relations because the pro se statistics in Domestic Relations has been staggering for years.

Regarding the income cap for non-married partners, I believe it should be $100,000.

I also agree with the $200,000 net marital asset cap.

Many of my family law colleagues have concerns regarding "diluting our law license." I believe that a practitioner with a limited license to practice law in domestic relations will provide litigants who are under the $200,000 net marital asset cap/$100,000 income threshold with at least **some assistance**. This is better than **no assistance**.

This same concept is true of attorneys offering limited scope/unbundled services. Some help is better than no help.

I would consider the pro se stats in domestic relations as a crisis that needs to be addressed now. I believe LLPs will be able to help us further bridge that equity gap.

A person going through a family law dispute deserves equity. Just because he/she is not able to afford an attorney, as myself, at my hourly rate, he/she should not be precluded from getting assistance, guidance, and legal advice through the process.

All of the concerns raised by my colleagues regarding this program are outweighed by the need for equity for pro se parties going through the family courts in Colorado.

The LLP role will not take business away from family law attorneys. Just as medical doctors have integrated physician assistants into their practices, family law attorneys can integrate LLPs into the structure of their firms and can generate revenues. This is a win-win.

Amy Goscha

Family Law Attorney

amy@kalamaya.law

August 12, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: PALS Implementation

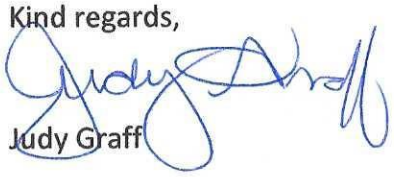
To the Members of the Supreme Court;

Please let this letter serve as my support for this program. As a former legal recruiter and owner of Paralegal Resource Center, Inc. I can tell you that I believe that there is a lot of need for individuals to take on this role. Monthly, I would receive phone calls from individuals asking for names of paralegals who could assist them with their divorce. They did not want to pay the steep cost for an attorney and would tell me that their cases were simple but that they didn't want to handle it alone. This are exactly the kind of person that this program could benefit. I was often on the receiving end of their frustration when I would share with them that a paralegal could only work under the direction and supervision of an attorney and that, in Colorado, they could not hire a paralegal directly to assist on their divorce.

I am currently retired but would have to imagine that those calls would be even greater now considering our current economy. I would love to see this type of program implemented. There are a lot of highly educated and talented paralegals in Denver who I would think would love to have the opportunity to serve the public directly and run their own practices. I do also believe that setting up strict guidelines and licensing just as you do for attorneys is a necessity.

I do hope to see a program put into place and thank you for your open mindedness to this new avenue of serving the people of Colorado.

Kind regards,



Judy Graff
303-263-5513

September 14, 2022

Catherine Grazier
Senior Paralegal
620 Garland St.
Lakewood, CO 80215

Re: **PALS implementation report and plan**

To Whom It May Concern:

Regarding the Licensed Legal Paraprofessionals (LLP) and how that program will be utilized by paralegals, I'd like to offer my perspective.

I've been a paralegal since 1996. I attended and obtained my bachelor's degree at Temple University in Philadelphia, PA. I obtained an ABA Certified Paralegal certificate in 1996 through Denver Paralegal Institute. I've worked with a litigation firm and a real estate firm before settling into the family law community. It is a community that contains quite a number of paralegals.

In my opinion these paralegals are committed to working with and for their constituents, who are usually people going through a very difficult time in their lives. As a group, we tend to be empathetic, caring, and curious, with a strong work ethic. All of these qualities will be an asset to the LLP program.

As a senior paralegal, I could use the LLP program to go out on my own and start a business to assist folks in need, however, I believe it will be more beneficial for me to work within the family law practice where I am employed. I feel that it would be beneficial to both the firm and community for me to work in conjunction with a family law attorney. I like the idea of being able to bounce case specifics off a team of professionals. I also feel that it will benefit the firm to have an LLP on staff to assist client's they would not necessarily help, by offering the LLP as a lower cost option.

In conclusion, I hope that the Court will continue to support the LLP program and see it through to implementation.

Thank you,
Cathy Grazier

RE: Proposed Changes to C.R.C.P 1.8(e) September 13, 2022

To Whom It May Concern:

A speaker at the 2022 Family Law Institute conference encouraged attendees to provide public comments on the Paraprofessionals and Legal Services ("PALS") initiative during their session, "ESI and the Ethics of Operating a Modern Family Law Practice in a Virtual World." I am writing to first provide context as to why I feel uniquely qualified to provide such a comment and then to elaborate on my qualified support for the rule change.

In 2012, I was hired as a Denver County Court Deputy Clerk. Within four years, I was promoted to a civil-division operations supervisor. After eight years with the Court I was accepted to Sturm College of Law, where I am finishing up my second year. While in law school, I have also served as a Self-Represented Litigant Coordinator ("Sherlock") and am currently an extern and law clerk with a private family and probate practice. Nearly 20 years ago, long before I imagined such a future was possible for a high school dropout, I was served with "interrogatories" – a word I could not pronounce – heralding an eight-page document I did not understand. The court had entered a default judgment against me for a medical bill lawsuit I never knew about. This is all to say that, for nearly half my life, I have been observing access from both sides and from the bottom of the "justice gap," where average citizens have languished without the bridges the justice system now strives to build.

After reviewing the available information, I worry that the blueprints for those bridges lack information from two crucial sources. First, there is little evidence in the proposals and advisory letters that solicitations for public comments have been successful. Having manned tables full of candy, pencils and surveys outside courtrooms when I was a court supervisor, I am familiar with the logistical and ethical challenges involved with mining court-users' feedback regarding an inherently fraught and emotional process. However, until the justice system effectively meets vulnerable constituents where they are and on their terms, initiatives to increase access to justice designed by the institution itself will likely be in vain.

This is not to say it is impossible to incorporate legal realities into initiatives designed to improve everyday litigants' experiences. The second source of information that would better inform stakeholders about the utility of an LLP program is data demonstrating there is utility to the proposed rule change. For example, of the 51,646 parties in domestic relations cases who were without attorneys in 2020, how many would have been eligible for the services of an LLP by virtue of having a marital estate valued at less than $200,000? Of those rendered ineligible by a ceiling low enough to exclude owners of any Colorado home not on wheels, how many could realistically afford a lawyer at "regular market rates,"[1] and how many would be casualties of the persistent fiction that assumes people who own homes can afford lawyers? Relatedly, how many of those eligible for the services of an LLP could afford them? Even at a quarter of the cost of a lawyer, has the average unrepresented litigant of years past had $2,500 in cash on hand? The answers to some of these questions are readily available in hundreds of thousands of C.R.C.P. 16.2 disclosures already on file with the court.

The current state of litigants seeking an uncomplicated divorce is like that many taxpayers would face if non-lawyer preparation assistance didn't exist: In both situations, laypeople are

[1] A Google search of "Colorado Divorce attorney average cost" returns averages between $11,000 and $12,000 for the complete process – sometimes as "low" as $9,000.

conscripted into a legally complex hellscape regardless of whether they need – much less can afford – an attorney. To dissolve a marriage, litigants must file a minimum ten forms totaling 38 pages.[2] Courts "simplify" these forms with six-page case management orders and seven-page instructions; further burying in paperwork constituents who, according to the Colorado Supreme Court's own training department, have on average middle-school literacy levels. Yet there is nothing approaching the availability and affordability of TurboTax to usher litigants through even routine court proceedings. To take this analogy a step further in the interest of addressing attorneys' wariness that LLPs would take business from them, there has never been a time in my tax-paying life when I could have afforded a tax attorney, even if I needed one.

Access to justice shouldn't require a college-level education or a year's worth of rent to obtain. Not every legal issue requires a JD and a bar card to navigate. Some just require competent document preparation, sufficient technical resources, and straightforward procedural information provided by patient, compassionate[3] civil servants.

At the conference where I began the draft of this letter, Chief Justice Brian D. Boatright became emotional upon recalling a colleague who "was not proud" to work within the judiciary. I know the feeling: I left my Sherlock post shortly after I was reprimanded for converting a litigant's documents from a format the court rejected into a format the court would accept.[4] PALS seems like a step toward closing the justice gap, but without more input from the non-legal public and/or meaningful data on the composition of Colorado's pro se litigants, there is little assurance that resources dedicated to planning and implementing this initiative would not be better spent providing litigants with proper forms, building out electronic filing options for non-lawyers, and equipping self-help centers with technology and internet that functions consistently enough to empower pro se litigants to achieve legal objectives using their own voices.

Thank you for considering my remarks.

Sincerely,

Lindsay Marie Hammond
720.646.5378 | lhammond24@law.du.edu

[2] Co-Petitioners without children who have waived maintenance and court appearances would file: JDFs: 1000, 1101, 1111(x2), 1104(x2), 1115, 1116 (proposed), 1201, and a Maintenance Advisement. The divorce packets clerk's offices sell usually contain only one each of JDFs 1111 and 1104, often requiring litigants with varying access to their own transportation to make a trip off-site to make copies and return to file.

Moreover, the packets were not pre-printed with the court address despite one of the most common reasons for rejection of emailed filings during COVID being captions without court addresses. My suggestions to make these improvements gained no traction prior to my departure.

[3] To the amusement of many colleagues at the combined court where I was a Sherlock, the Clerk of Court's motto was, "People lie, and they don't read."

[4] Document conversion is not among the services prohibited by Colorado Chief Justice Directive 13-01(b).

BETH D. WILKINS
CERTIFIED SENIOR PARALEGAL

EMAIL | BETH@HARRISFAMILYLAW.COM

1125 Seventeenth Street, Suite 450
Denver, Colorado 80202
DIRECT | 303-515-5000
FAX | 303-299-9554
WEB | WWW.HARRISFAMILYLAW.COM

THE HARRIS LAW FIRM
25 Years

Locations Also In:
Colorado Springs
Boulder
Englewood

September 14, 2022

Colorado Supreme Court *Sent via e-mail to* supremecourtrules@judicial.state.co.us
2 East 14th Avenue
Denver, CO 80203

To the Court:

I am a certified senior paralegal with The Harris law Firm, PLLP and have been employed as a paralegal since 1992. I attended Denver Paralegal Institute before working with sole practitioners since graduation and now support The Harris Law Firm.

I am active in the Family Law Section of Rocky Mountain Paralegal Association (RMPA) and am eager to see implementation of the PALS program in Colorado. RMPA has a long standing record of serving under-served populations and can add tremendous support to family law cases in this new capacity. Experienced and educated paralegals could help people who cannot afford attorney fees and could manage their own cases with some assistance.

For over 25 years I served on the RMPA pro bono committee Wills on Wheels, which offered free estate planning for low income elderly. I know firsthand how heartwarming it is to help someone who just needed that boost from a paralegal who knew how to help complete forms and, with attorney review, prepare simple wills.

On a daily basis, I support attorneys with our dissolution clients in preparing basic dissolution forms, Sworn Financial Statements, drafting discovery and pleadings.

I see clients in my present employment who simply can't afford high cost attorneys, but really need some assistance with basic elements of a divorce. The Colorado paralegal community has many experienced paralegals who can quickly transition to a PALS program once approved and set in motion.

Please feel free to contact me with any questions: beth@harrisfamilylaw.com or 303-515-5000. I am excited to see PALS active and serving soon!

Sincerely,

Beth D. Wilkins

Beth D. Wilkins Certified Senior Paralegal

The Immigrant Legal Center of Boulder County

A Non-Profit and OLAP-recognized* organization

Laurel Herndon
Attorney

Belen Pargas Solis
Paralegal and OLAP ptl.
Accredited Representative

Maria Gordillo Villa
Paralegal and OLAP ptl.
Accredited Representative
(application pending)

OFFICE
948 North Street Suite 8
Boulder, Colorado. 80304

Phone
303-444-1522

Fax
303-444-1667

Email
laurel @ boulderayuda.org

Web
www. boulderayuda.org

*OLAP is the Office of Legal Access Programs of the U.S. Department of Justice

September 12, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203
by email to supremecourtrules@judicial.state.co.us

Re: Licensed Legal Paraprofessional Program

Dear Justices of the Colorado Supreme Court:

I write in support of adopting a Licensed Legal Paraprofessional Program in the State of Colorado. As the managing attorney of the non-profit Immigrant Legal Center of Boulder County I can personally attest to the enormous need for affordable, Spanish-language legal assistance in family law matters. The Sherlock program has been of immeasurable assistance, particularly in clarifying confusing court processes to monolingual Spanish-speakers. However, Sherlocks are not able to give legal advice and it is this counsel that is badly needed. Our clients are left with a race to Colorado Legal Services, where the first to arrive wins legal assistance and the second is left out in the cold. The cost of hiring a private family law attorney is far beyond the capacity of our clients.

The Immigrant Legal Center has experience with an LLP-type program, being an organization recognized by the U.S. Department of Justice. We have an accredited representative who has been authorized to practice immigration law for the past five years, and an application pending for a second representative. Belen Pargas Solis participated in federal training and passed an examination similar to the PALS plan, and I have great confidence in Belen's judgment and legal skill in representing our clients.

Our non-profit organization has participated in the 20th Judicial District Access to Justice Commission for more than a decade, and has continually stressed the need for more affordable legal assistance in the State of Colorado Court System. Low-income Spanish-speaking community members face a great deficit of affordable legal representation, due in great part to the high barriers to entering the legal profession. The law of supply-and-demand suggests that Spanish-speaking paralegals will welcome the opportunity to apply to the Licensed Legal Paraprofessional Program, and as a Colorado attorney (license #35691) I would welcome their participation.

Sincerely,

Laurel Herndon

Laurel Herndon

KNIES, HELLAND & MCPHERSON
ATTORNEYS AT LAW

Jennifer Knies, Partner
Jennifer Helland, Partner
Kelly McPherson, Partner
Ezra Hurwitz, Attorney
Sarah Zane, Attorney

September 12, 2022

Colorado Supreme Court,
2 E 14th Avenue,
Denver, CO 80203

RE: Comments re LLP Program

Good Afternoon,

My name is Ezra Hurwitz, I am a domestic relations attorney in El Paso County, and a former EPC FLS Section Chair.

I have reviewed the current implementation plan, and had discussions with my colleagues about it, and have the following comments we believe may be helpful:

- The cap on the marital estate or combined incomes of $200k, seems extremely low, if the parties own a home. Is there any consideration for amending this cap to permit folks with higher valued marital estates from utilizing LLPs if the ownership of a home alone, is what disqualifies them from utilizing an LLP?

- Currently it sounds like LLPs could either work in a firm or on their own but they are encouraged to work in association with a DR attorney; we believe there should be a requirement to work with an attorney through some sort of recognized arrangement either employment or some form of supervisory relationship.

- In reviewing the current committee members, of the various committees it seems the vast majority are located in the Denver metro area, if this is intended to be a statewide program, recommend adding in more voices from folks outside of Denver metro.

Thank you and feel free to reach out to discuss further.

Respectfully,

Ezra M. Hurwitz, Esq.

P: 719-635-8499

KNIES, HELLAND & MCPHERSON
1122 N. El Paso St.
Colorado Springs, CO 80903

khmattorneysatlaw.com

September 14, 2022

VIA EMAIL: Supremecourtrules@judicial.state.co.us
Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

Re: COMMENTS REGARDING THE PROPOSED LLP PROGRAM

To Whom It May Concern:

I would respectfully undertake to provide my thoughts on the Colorado Legal Professional Program proposals currently before the Colorado Supreme Court for consideration. By way of introduction, I am a very recently retired family law practitioner of 43 years with 16 years on the Executive Council of the Family Law Section and 3 years on the Office of Dispute Resolution Committee (ODRAC) appointed by Ret. Justice Rice. Only recently have I been able to catch up on the proposal and have reviewed the same and responses from the Family Law Section and particularly letters of esteemed counsel Helen Shreves and David Littman. Hopefully the Court has received them and I am in total agreement on all their thoughts. However, it is felt that some additional history and comments may be helpful.

Many may not recall that starting around 2014 and concluding in late 2016 an effort was undertaken to allow non-lawyer mediators to be "credentialed" such that they could expressly provide legal advice to domestic relations parties. This current proposal goes far beyond that effort by broadly endorsing the ability of non-lawyer paraprofessionals to give legal advice and attend court hearings. After almost two years of debate in the ODRAC committee it was voted down 11/4. That blue-ribbon committee included appellate judges, retired district court judges, practicing lawyers and non-lawyer mediators primarily from the Office of Dispute Resolution. The concept of non-lawyers providing legal advice was vetted over and over and turned down for good reasons. It is my belief this new proposal is really just the same effort but on a much broader landscape. The following are some of my concerns in concert with those expressed by the Family Law Section and the letters of Ms. Shreves and Mr. Littman.

1. First, it must be noted that family law matters are, in my opinion, as important if not more so , than any other area of the law to the parties, I found this to be true in my personal injury and worker's compensation practice. This was echoed by the many seasoned civil litigators I represented over the years who were taken aback by the complexity of family law which reaches into so many other areas of the law like an octopus. The point being made is that for so much of the public this is the only interaction with the legal system in their lives and certainly critical to not only their financial well-being but also their relationship with their children. The idea of artificially putting a dollar cap on matters to enable a non-lawyer to represent a parent in allocation of parental responsibility case based on a marital property balance sheet is insulting at best and tragic at worst. This distinction is quite frankly unfathomable,

2. The parameters of what such a paraprofessional may advise on is vague and a recipe for error. Experience has taught all experienced family law lawyers that non-lawyer mediators mistakes have

created undo expense and heartache many times that can't be fixed. A lawyer faces a malpractice action based on not providing the appropriate standard of care in giving advice. Most, but admittedly not every, lawyer carries malpractice insurance. Will a non-lawyer paraprofessional giving legal advice be subject to a tort claim for malpractice based on the standard of care a lawyer should provide/ This is a critical question. Much reference was made to Washing state's LLP. It didn't just fail, it fell flat on its face. Ms. Shreves mentioned a meeting with the Washington representatives of their program at the Colorado Supreme Court chambers during the time efforts were made by the Alternative Dispute Resolution section of the Colorado Bar to get it passed including, in my opinion and personal view, circumventing the Family Law Section. I asked them then about how their proposed members would get malpractice insurance and the response was they had it worked out. In reality there were practically no underwriters willing to take on that risk. How is the public to be protected if this is passed in Colorado? Will paralegals get a pass because they may be cheaper when offering bad legal advice?

3. The proposal suggests paraprofessionals drafting pre-trial certificates. This includes, of course, planning on what exhibits to use which presumes getting them into evidence. So, are we assuming the paralegal will woodshed a pro se litigant into acting as a trial attorney to offer evidence and cross-examine. How are experts, especially in APR selected and prepped? The proposal says paraprofessionals may answer a Court's "factual " questions. Does this include how a valuation was calculated or requesting a foundation be put forth to support the opinion of a pro se party?
It is my opinion this proposal is clearly offering *carte blanche* for the otherwise unauthorized practice of law by a non-lawyer.

4. It would be quite easy to go on for pages regarding the complexity of a dissolution case even including those with less than a positive $200,000. Pensions, stock options and other deferred compensation alone cause the threshold problems. The proposal doesn't eliminate maintenance considerations or child support underemployment issues which are quite common. For just one of a myriad of examples, what about preparing a maintenance argument for a long-term marriage, presently few assets, yet significant future wage-earning capacity? To assume remedial contempts are simple one must have tried some to assuredly know better.

5. As a final point to emphasize the complexity of family law cases I would offer a straightforward self-explanatory exhibit. I would urge the members of the Court to simply spend ten minutes thumbing through the latest edition of the Bench/Bar Book authored by the Family Law Section. The over 30 plus sections detail issues that come up often and require skill and great effort to navigate especially with the emotional overlay of family law.

6. Possibly the strongest point in denying the mediator credentialing six years ago, which is quite analogous to this proposal except as noted much broader, was that such allowance would provide a false and misleading imprimatur of competence to non-lawyers practicing law. This is much worse and would assuredly deceive those who can't afford to start over the most.

The problem of pro se litigants has potential other solutions. One that must be considered is having a domestic relations bench. It is commonly accepted belief, for years, that putting new judges on the domestic bench for a year and then rotating out is a travesty. Consistency of rulings used to be the best way to resolve a case. Of course, I refer to my earlier years but given the immense

discretion given a trial judge it is important for those wishing to resolve disputes instead of gambling on a hearing. There are other suggestions but the above proposal is rife with malpractice and great disservice to the public, Further, in my opinion, it is an attempt to create a new cottage industry around family law. I can foresee the worst of advertising forthcoming and the old adage of "follow the money" may unfortunately apply. If memory serves correctly, there were nearly 300 paraprofessionals ready to sign up for being a non-lawyer mediator "credentialed" by the state of Colorado prior to the CJD being turned down by Justice Rice.

Respectfully submitted,

Bill King

W. BENJAMIN KING, ESQ.
303.773.8100
BKING@MONTGOMERYLITTLE.COM

September 14, 2022

VIA EMAIL: Supremecourtrules@judicial.state.co.us
Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

Re: Comments & Objection Regarding LLP Implementation Report and Plan.

To Whom It May Concern:

I am writing to express my grave concern regarding the proposed Implementation Plan of the Licensed Legal Paraprofessionals Program (hereinafter, "***LLP***"). The proposed plan indicates the goal of the program is to provide access to legal services in a more financially prudent manner to the estimated 73% of domestic relations litigants currently proceeding *pro se*. This number, while seemingly high might just constitute the initial case filing and is not truly representative in my own opinion as to how many litigants hire counsel once a divorce or custody case is initiated. However, while this program and its initiatives may claim to balm some of the issues surrounding access to justice, it still has its own powerful shortcomings, specifically surrounding the unauthorized practice of law, which may not allow it to fully bridge this gap or make this a viable solution for Colorado families. As outlined below, my colorable concern is grounded in public policy and the adverse effects and irreparable harm this proposal can have on domestic relations litigants.

Unauthorized Practice of Law Concerns

The implementation plan proposes that licensed legal paraprofessionals ("LLPs") would be authorized to engage in a limited scope of the practice of law allowing for effective representation in "less complex" family law matters while preventing LLP representation in matters, which are more complex with higher assets. However, family law matters are inherently complex by nature due to their sensitive content, thus setting the delineation for complexity based on net marital assets or a families taxable or self-reported gross income alone, may only further open the door to the unauthorized practice of law, the mishandling of cases by the LLPs, and could ultimately place families in need in a worse financial position requiring a fully licensed lawyer to attempt to fix the issues created by the very program designed to provide relief. In family law matters dealing with allocation of parental responsibilities, children are at issue.

The United States Supreme Court in *Troxel*, has made clear that the liberty interest at issue in these domestic cases—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by the Supreme Court. Nearly

100-years-ago, in *Meyer v. Nebraska,* 262 U.S. 390, 399, 401, 43 S.Ct. 625, 67 L.Ed.1042 (1923), the Supreme Court held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own." Two years later, in *Pierce v. Society of Sisters,* 268 U.S. 510, 534–535, 45 S.Ct. 571, 69 L.Ed. 1070 (1925), the Supreme Court again held that the "liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control." With such high stakes, it would be poor public policy to allow non-lawyers to essentially litigate matters with such grave constitutional weight and implications. There is no such thing as a "simplistic" family law matter or domestic relations dispute and anyone representing otherwise likely has never litigated such a case in their career.

Until now, Colorado law has prohibited the unauthorized practice of law, i.e., the practice of law by a person who is not a licensed attorney in good standing with the state bar.[1] The court cannot permit an unlicensed person to commit acts which it would condemn if done by a lawyer.[2] A non-lawyers exercise of legal discretion on behalf of another's legal interest is prohibited because of potential harm to the public.[3] When issues arise, which fall under the potential scope of the unauthorized practice of law, these issues are handled by a permanent committee of the Colorado Supreme Court known as the Legal Regulation Committee.[4] It is the duty of this committee to make determinations as authorized by Colo. R. Civ. P. 251.1 *et seq*. regarding attorney discipline and disability proceedings.[5] The Court has further addressed the necessity for this regulation holding the purpose of the bar and the admissions requirements is to protect the public from unqualified individuals who charge fees for providing incompetent legal advice.(emphasis added). *Id.* R. 228[6]. Thus, prior to the proposed implementation of the LLP program, any person who is not an attorney licensed in good standing with the state bar association who practices, participates in, and charges fees for legal work, drafting, and/or advice may be considered by the Supreme Court of Colorado to be actively engaging in this practice.

The proposed Implementation Plan discusses restrictions on the LLP's, however if previously *pro se* parties are unaware of these restrictions, and are not explicitly informed of them by the LLPs themselves, what happens when an LLP crosses this line and starts providing full blown legal advice? What happens when parties subsequently rely on this advice when entering into agreements, which are binding with the Court? Most critically, what happens when LLPs not only improperly give advice, but a party relies on that advice when making their decisions and that improper advice turns out to not be in their best interests or the best interests of their children?

The result of relying on this avenue is that parties get stuck with documents, which may negatively impact them in various ways, such as: paying more or receiving less in child support or maintenance than they would have been accurately awarded in Court, being exposed to tax liability issues which they did not know existed or fully understand, unwittingly giving up their parental rights to decision making or parenting time with their children, accidently waiving their rights to

---

[1] Unauthorized Practice of Law *Comm. v. Grimes*, 654 P.2d 822 (Colo. 1982)
[2] Colo. R. Civ. P. 228.
[3] *People v Adams*, 243 P.3d 256, 265 (Colo. 2010) (citing Perkins v. CTX Mortgage Co., 969 P.2d 93,102 (Wash. 1999).
[4] Colo. R. Civ. P. 251.2(a)
[5] Colo. R. Civ. P. 251.2
[6]Colo. R. Civ. P. 228. *See also,* Unauthorized Practice of Law Comm. v. Prog, 7 61 P.2d 1111 (Colo. 1988)

business interests/retirement interests/investment holdings, the possibility of having their entire dissolution reopened in the Court due to lack of disclosure or improper disclosure within five years of the decree entering[7], and the very real possibility of having to hire a lawyer to fix these mistakes after the fact and incurring more in legal fees than they would have if they had hired a lawyer upfront. All of these issues are problems most parties likely may not consider when making the decision to work solely with an LLP in the hopes of saving costs. Each potential problem presents its own litany of issues and have very real personal and financial consequences.

In addition, the proposal indicates that LLPs could practice independently, without the supervision of an attorney. While many LLPs would likely practice under the umbrella of a law firm, this opens the door to LLPs working in a fully unsupervised environment, being able to mislead clients in regards to what they are legally able to assist with, and accepting client matters which require resolution of complex issues of law or fact which they are unqualified to assist with, even after completing the proposed PALS licensing requirements. The current proposal for a new rule authorizing LLPs to engage in limited practice relies heavily on the jurisdictional limitations on the client matters an LLP could accept, however this does not address what oversight, if any, will be provided to ensure LLPs are not accepting matters which fall outside of these limitations. The cost to families to try to rectify mistakes by LLPs post-decree will far outweigh any advantage they offer in cut rate cost savings initially—that is assuming there is some post-judgement remedy available to a party depending on the error committed.

More so, family law matters consistently overlap with other legal issues—namely criminal issues. Again, an LLP would lack the competency a licensed attorney has that has taken the bar exam and has passed the ethics exam dealing with substantive and procedural criminal law. A lack of issue spotting may occur by an LLP resulting in possible malpractice, for lack of a better term, related to 5th Amendment rights against self-incrimination. This is albeit one of a myriad of reasons authorizing non-lawyers to practice law presents a serious risk of harm to the public at large.

Where does this practice for LLPs start and where does it end? Can LLPs litigate cases at trial? Does C.R.C.P. Rule 11 signing of pleadings apply to LLPs? Will LLPs be responsible for adhering to case deadlines, oral arguments, discovery responses, etc.? Can an LLP present offers of settlement at mediation and pre-trial settlement conference? Are LLPs required to adhere to Colorado common-law on issues surrounding the ethical implications of representing client's requiring appointments of a GAL due to their incapacitated state under *Sorenson*? As the Court can probably quickly discover, reinventing a whole new practice procedure and policy for non-lawyers is an impossible quagmire, which will decimate tons of judicial recourses and tax-payer funding, which could be better used in creating a dedicated family Court or implementing more pro bono volunteering requirements for Colorado lawyers.

Unclear Remedies and Protections for Clients

The other issue which looms in the forefront of this possible solution is that of possible remedies for the clients. As things are currently, legal malpractice insurance primarily limits their coverage to that of malpractice which was committed by an attorney. The original PALS proposal, which is not updated in the implementation plan, touches briefly on this concern by saying,

[7] *See, e.g. In re: Marriage of Hunt*, 353 P.3d 911 (Colo. App. 2015)

"malpractice insurance was another area being researched, and it is possible some kind of malpractice insurance will be required."[8] This single sentence does not offer much comfort for parties, nor does it imply that this program will not take off and begin to function without this key element being fully addressed and accounted for. If these licensed professionals come into the legal community without malpractice coverage, then there is a higher potential that clients who are harmed as a direct result of the work and conduct of these LLP's will have less recourse to attempt to be made whole from any damages caused. It is true lawyers are not required to carry malpractice insurance currently, but the probability of them committing malpractice is much lower in my professional opinion given the additional experience and education they possess versus an LLP. The result of being unable to bring a malpractice claim is that parties would end up having to go through the same process of filing a complaint as they would for the unauthorized practice of law, where the likelihood for tangible timely relief is low. Though the Supreme Court's rules concerning attorney discipline and disability would be amended under the PALS proposal to address LLPs, at the end of the day the LLPs pragmatically would not be held to the same high level of scrutiny as barred attorneys.

The unauthorized practice of law is somewhat of an enigma in the legal community currently, with the current PALS implementation plan creating amble opportunity for the murky line into unauthorized practice to be crossed by the LLPs with limited recourse for clients. Unauthorized practice is difficult to understand, often discussed in hushed tones as a concern for *other people* to worry themselves with. No one wants to be caught in the crosshairs of the issue, yet the root cause of the problem is something which impacts all legal practitioners, whether they are fully licensed lawyers or paraprofessionals working in the legal realm. Ultimately most people cannot afford to hire a lawyer when they need it most and are willing to risk the things which are most precious to them (their security, their children, & their future) in order to resolve their legal issue as affordably as possible. The justice gap in family law is not something which is going to go away nor is the need to find a tangible solution something the Colorado court can ignore moving forward. In order to protect families and children in this great state the unauthorized practice of law in domestic relations matters must be significantly reduced and ultimately eliminated, with meaningful remedies being available for wronged parties, and practical alternatives being made available for all people, regardless of how much money they have.

Alternative Solutions for Better Access to Justice & Conclusion

Alternative solutions could include mandatory pro bono hours for attorneys, dedicated family law courts, or modifications to the PALS program to ensure significant reduction in the possible risk to clients of malpractice. We already have turn-key organizations like Metro Volunteer Lawyers (MVL) through the Denver Bar Association (DBA) that can help thousands of litigants a year who are screened to confirm their modest means. However, these litigants would gain true access to justice through pro bono representation by a licensed lawyer.

Another option would be for the implementation of family Courts here in Colorado with specially trained and dedicated Judges. We also already have C.R.C.P. Rule 11(b) unbundled services clients can take advantage of for cost savings through licensed counsel. These proposals in my opinion have wide-spread support. On the other hand, I note that while on the Colorado Bar

[8] *PALS Subcommittee Preliminary Report May 2021*

Association's Executive Council for the Family Law Section we have rejected this proposal as written and oppose the initiative. Instead of trying to reinvent the practice of law with less qualified individuals, our bar should be held to a high standard of integrity and competency as it always has been.

For these reasons, and the plethora of ambiguity surrounding the supervision and regulation of the actual practice by the LLPs, we urge the Court to reconsider and ultimately deny the implementation of this program and look into possible alternatives for low-income families to access representation by fully licensed attorneys in order to avoid the possibilities of harm the program may create for families in our community.

MONTGOMERY, LITTLE, & SORAN, P.C.

W. Benjamin King

W. Benjamin King, Esq. (#48283)

SVC | SENN VISCIANO CANGES P.C.

LAURA LANDON
Paralegal
LLandon@SennLaw.com

August 2, 2022

VIA EMAIL ONLY
Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: PALS / LLP Public Comment

Dear Court:

I write to provide my comments in support of the LLP initiative and to express my excitement for the opportunities and relief it will provide.

If brought to fruition, the services provided by the LLP will help address a very real and urgent access to justice issue. There is currently a significant lack of available *affordable* legal aid for families going through domestic actions. The lack of guidance through this process has resulted in a backlog of actions before the Court which could otherwise be resolved with minimal delay. The addition of legal paraprofessionals will directly address this issue.

Over the past year I have had the pleasure of serving on a sub-committee associated with identifying the educational and experiential requirements, as well as identified skillsets that the LLP should possess. We have given great consideration to these matters and believe we have identified a comprehensive scope of skills, experience and education that will adequately prepare the LLP for service in the domestic legal field. There will be challenges ahead, but I feel we are learning from the successes and failures of other state efforts and can roll out this program to a very positive end. I look forward to offering my assistance in the next phase of implementation. If the opportunity comes to pass, I hope to be one of the first Licensed Legal Paraprofessionals in Colorado and to lend my skills towards seeing it become a successful and welcome addition to the legal services profession here in Colorado.

I thank you for your time and consideration.

Very truly yours,

/s/ Laura Landon

Mediated DisSolutions
An Affordable Alternative to Litigation
Colleen McManamon

September 14, 2022

Colorado Supreme Court
supremecourtrules@judicial.state.co.us

RE: PALS Implementation Report and Plan

Dear Justices:

As a sole practitioner offering Alternative Dispute Resolution services as well and Child and Family Investigator, I am a huge proponent of the licensure of limited legal paraprofessionals. For the better part of 30 years I have worked in the family law arena as a paralegal, mediator and in the past 10 years as a Parenting Coordinator, Decision Maker, Arbitrator and Child and Family Investigator.

The population with the average median income does not have the resources or financial ability to fund legal services when divorcing or seeking Court Orders to govern their allocation of parental responsibilities. Unfortunately, I have witnessed parents and spouses depleting their retirement funds to pay for legal fees that were not really necessary. The marital estate consisted of real estate, retirement, bank accounts, cars and debt. The division is not complicated. As a paralegal, I drafted the spreadsheet defining the division of the marital estate, the Separation Agreement and other pleadings necessary to complete the divorce. Lucky enough to work for a few of the best family law attorneys in the Denver metro area, I was part of the legal team and participated in the case management, strategy and settlement negotiations.

As a mediator, I have worked with couples seeking clarifications and/or modifications of Court Orders. Often, the clarifications and modifications are needed because the JDF forms do not provide enough detail. As we all know, the devil is in the details. Limiting LLPs to completing JDF forms is a disservice to the clients. The education and experience requirements are stringent enough to confirm the LLP has experience drafting Separation Agreements and Parenting Plans. I strongly urge the Court to expand the scope of practice to include Separation Agreements and Parenting Plans, or at the very least, Memorandums of Understanding. The Court Official assigned to the case is required to review the agreements. The Court has the authority to reject agreements that are egregious, unfair or contain contradictory language. Additionally, attorneys with no experience draft poor agreements. Many senior paralegals have experience training new (recent graduates) attorneys.

As a Child and Family Investigator, I work with pro se parents often. Sometimes their fear of the legal system encourages them to avoid legal representation. Most often, their financial limitations prevent the opportunity to seek legal advice. The most basic legal advice would be helpful in many cases. Fear of being taken advantage of or fear of

303-591-8985
6590 S. Vine Street, Suite 109 • Centennial, Colorado 80121
colleen@mediateddissolutions.com • www.mediateddissolutions.com

the unknown, because they do not have any legal advice, hinders the parents' ability to resolve coparenting disputes.

I am hopeful that the Court will reconsider the $200,000 asset cap. The past few years have been very good to homeowners throughout most of Colorado with real estate increasing over $100,000 in just the past few years. There are many cases I have worked on where the parties have up to $500,000 in assets that one could define as a "simple case." Many divorcing parties simply want guidance separating their financial responsibilities. Many divorcing parties or separating coparents seek Court Orders to assist them with separating and coparenting. The majority of the public does not understand the legal process nor do they require litigation, instead simple, defined Separation Agreements and Parenting Plans.

The public seeking assistance from a LLP is not interested in retaining an attorney for a variety of reasons. LLPs will not be competing with attorneys, as most attorneys fear.

The LLP will be an asset to the Court by helping the pro se parties complete the required pleadings for a divorce or allocation of parental responsibilities. LLPs will provide the guidance needed to move simple cases through the legal maze.

As a member, and co-chair of the Family Law Section, of the Rocky Mountain Paralegal Association, I wholeheartedly agree with the contents of RMPAs comment submitted to the Court.

Thank you for your attention.

Sincerely,

Cmcmanamon

303-591-8985
6590 S. Vine Street, Suite 109 • Centennial, Colorado 80121
colleen@mediateddissolutions.com • www.mediateddissolutions.com

Meghan Dill-Meinzer
1258 South Clay St. Denver, CO 80219
E-mail: meghandill.md@gmail.com
Telephone: (720) 224-7449

September 13, 2022

To Whom It May Concern,

Thank you for taking the time to review my letter in support of the implementation plan to license Licensed Legal Paraprofessionals. My name is Meghan Dill-Meinzer. As my resume indicates, I earned a bachelor's degree in history with a minor in interdisciplinary legal studies and a paralegal certification from Metro State University and the Community College of Denver respectively. It has been my great pleasure to work in the family law field for the past three years and the opportunity for licensure is a natural next step in order to increase my ability to create access to justice in the public sphere, increase my earning potential and build upon my long-term career development.

Presently, I work at a family law legal firm in Denver as a full-time family law paralegal. As a paralegal, I compose pleadings for all stages of litigation, prepare financial disclosures per C.R.C.P. 16.2, and associated court documents with a specific focus on divorce and family law matters. In my organization, I exercise excellent written, oral, and analytical skills to serve as a liaison between the court, clients, law firm associates, and family law personnel such as family court facilitators, family investigators, social workers, and support organizations. As a way to build upon my present knowledge and education, I consistently participate in CLE opportunities. Further, I am proficient in utilizing products including Microsoft Office and Adobe Acrobat, as well as databases including CCEF, Clio Software for law firms, and Dropbox. Looking forward, I wish to utilize my skill set and experience to engage in outreach through public service as a licensed legal paraprofessional.

Sincerely,

Meghan Dill-Meinzer

Sunday, August 14, 2022

Justice Monica M. Márquez
2 East 14th Avenue
Denver, CO 80203

Justice Maria E. Berkenkotter
2 East 14th Avenue
Denver, CO 80203

Re: Licensed Legal Paraprofessional Program

Dear Justice Márquez and Justice Berkenkotter:

I write to you today in support of the proposed plan to implement a Licensed Legal Paraprofessional program in Colorado. My sole concern with the Advisory Committee's proposal is that it fails to go far enough. By limiting LLPs to only certain types of family law matters, I worry that the program will be unable to solve the access to justice problems that affect countless communities across our state.

I have previously highlighted the plight of legal deserts in Colorado such as Walden. *See* Nicholas Monck, *Reform Critical to Wipe Out Colorado's Legal Deserts*, Law Week Colorado (Oct. 8, 2020). Though it is the county seat of Jackson, County and home to a sheriff's office, clerk and recorder, and county court, there is not a single lawyer practicing within 50 miles in any direction of Walden based on the Colorado Bar Association's directory. Office of Attorney Regulation Counsel data indicates nearly half of Colorado's counties have fewer than 25 lawyers, and many have fewer than 10, including judges, district attorneys, public defenders, and government attorneys. Julia Cardi, *Anatomy of Colorado's Legal Deserts*, Law Weekly Colorado (June 22, 2020). Crowley County, home to almost 6,000 people, does not have a single lawyer. Julia Cardi, *New ABA Report Finds Legal Deserts Prevalent Throughout U.S.*, Law Week Colorado (Aug. 5, 2020).

When involved in a legal dispute, having the assistance of a trained advocate can often make the difference between winning or losing. Before the COVID-19 pandemic moratorium on evictions, Denver renters succeeded in 94% of eviction proceedings when represented, but less than a third of the time if *pro se*. Jack Regenbogen, *Facing Eviction Alone: A Study of Evictions in Denver, 2014-2016*, Colorado Center on Law and Policy (Dec. 14, 2017). Nationwide, similar differences in outcomes have been observed in domestic relations cases and administrative proceedings involving unemployment, benefits, and disability claims. Sonja Ebron, *Self-Represented Litigants Lose Often. Here's Why*. Courtroom5 (Dec. 6, 2019); Jeffrey J. Rachlinski & Emily Taylor Poppe, *Do Lawyers Matter?: The Effect of Legal Representation in Civil Disputes*, Pepperdine L. R. (June 2016).

Utah, Arizona, and New Mexico have recently experimented with efforts similar to LLPs. The time has come for Colorado to follow the lead of our sister-four corner states and allow non-attorneys to handle simple transactional proceedings such as landlord-tenant disputes,

administrative matters, state licensing, real estate transactions, and will drafting. LLPs could provide cost-effective assistance with legal document writing, filing court paperwork, and negotiating settlements. If the program proves successful, LLPs may also be able to represent individuals in certain limited settings to the benefit of the parties and the court.

My only hesitation in offering an unqualified endorsement of the Advisory Committee's proposal is that the LLP program may not prove viable. Washington proves a cautionary tale, where the similar Limited License Legal Technician program failed because non-lawyers were restricted to only family law matters. *See* Washington State Bar Association, *Limited License Legal Technicians* (Aug. 11, 2022). If Colorado similarly limits LLPs' scope of practice, legal paraprofessionals may be hamstrung and unable to come up with a viable business model, especially in small and rural communities.

LLPs offer a path to eliminating legal deserts across Colorado and reducing the administrative burden placed on courts by *pro se* litigants, while also ensuring the fairer administration of justice. Though appropriate safeguards are necessary to ensure that these legal paraprofessionals are adequately trained and held to the same high ethical standards as attorneys, the Colorado Supreme Court must also give them enough autonomy to provide them with viable and fulfilling careers.

Sincerely,

Nicholas Monck
Colorado Attorney Registration #53798

September 12, 2022

To the Colorado Supreme Court:

The National Federation of Paralegal Associations, Inc. (NFPA), a professional organization founded in 1974 as the first national paralegal association, is an issues-driven, policy-oriented professional association directed by its membership, comprising nearly 50 paralegal associations and representing over 8,000 individual members. NFPA promotes leadership in the legal community, with a core purpose of advancing the paralegal profession.

In pursuit of this purpose, NFPA supports and advocates expanding the paralegal role, in limited circumstances, to bridge the access to justice gap. The United States is ranked 41st across 139 countries for civil justice, but is ranked near the bottom (126th) when it comes to people who can access and afford civil justice. Current endeavors, such as pro bono work and legal aid, are not enough to meet the need, and it is NFPA's view that qualified paraprofessionals should be trained and utilized in providing additional affordable legal assistance options to the people who need it most.

NFPA first comprehensively addressed the issue of Non-Lawyer Practice in 2005 when it issued its first Position Statement on Non-Lawyer Practice, and again in 2017 when it approved its current Position Statement on Non-Lawyer Legal Professionals ("NLLP"), which outlines the suggested criteria for the creation of such a Project, to wit:

> *NFPA supports legislation and adoption of court regulations permitting NLLPs to deliver limited legal services directly to the public, provided that such legislation or court regulation includes:*
>
> 1. *Exceptions from the Unauthorized Practice of Law within the confines of the respective state's regulations and statements on Unauthorized Practice*

of Law;

2. *Postsecondary education standards in the specialized area of law in which the NLLP will practice;*
3. *Ethical standards that are substantially similar to the ABA and NFPA;*
4. *Continuing Legal Education ("CLE") consistent with NFPA's CLE standards;*
5. *Bonding or insurance requirements as set forth by the jurisdictional authority; and*
6. *A requirement that all NLLPs submit to advanced competency testing as to specialty practice area and limitation of practice as prescribed by the laws, regulations, or court rules of the jurisdiction with the regulating authority.*

Further, candidates for any NLLP plan shall have the following criteria:

1. *Attestation by a licensed attorney familiar with the NLLP's substantive experience and work history; and*
2. *Fitness and character criteria consistent with NFPA's Fitness and Character model.*

A review of the Advisory Committee's Paraprofessionals and Legal Services Subcommittee's Implementation Report and Plan satisfies us that Colorado's proposal meets these criteria and even exceeds them. Specifically, proactive regulation measures combined with robust continuing legal education requirements, will help to ensure the ongoing success of the program. We applaud the Advisory Committee for their work in creating a robust infrastructure that will support licensed paraprofessionals in their growing responsibilities and build support for the program within the legal services industry to ensure the program is self-sustaining.

NFPA has watched the development of limited licensing and paraprofessional practice projects throughout the United States. Colorado's comprehensive proposal is well-researched, reasoned, and provides a robust framework for a paraprofessional licensure program. We are especially impressed with the education and testing requirements, as well as the regular references to Utah, Washington, Arizona, and Minnesota that shows Colorado is intent on learning from other states' successes and failures in implementing similar licensure programs. It is commendable that Colorado has built on the experience of other states utilizing non-lawyer legal professionals to provide legal services to low- and middle-income families and individuals. It is also clear that the Advisory Committee understands that implementing a paraprofessional licensure program is a long-term goal that will require public education and support to be successful.

The Advisory Committee proposes that LLPs be allowed to accompany their client to court and even sit at counsel table but clearly states that the LLP may not orally advocate in court. NFPA recommends that Colorado consider expanding the scope of the program to include court appearances in certain cases and types of hearings and administrative proceedings to further the goal of bridging the justice gap. For example, Minnesota's pilot project permits a legal paraprofessional to represent tenants in court, including in evidentiary hearings, and that has proven to be successful in allowing tenants to remain in their homes.

For a licensed paraprofessional program to be successful, self-sustaining, and make a significant impact on our justice gap, licensed paraprofessionals must be empowered to represent individuals in certain courts of law and administrative proceedings. The needs of the represented individuals only increase when entering the courtroom. A move to allow limited courtroom appearances will help alleviate the burden *pro se* litigants place on an already strained justice system and judiciary.

NFPA further recommends removing the $200,000 marital asset limitation in dissolution of marriage or civil union cases. Other factors may impact a litigant's ability to afford counsel, such as accumulated debt, and the current housing market is considered inflated by many. An asset limit arbitrarily limits who can and cannot retain legal services and continues to perpetuate the civil access to justice gap.

In addition, NFPA recommends that the Court not impose an income limit for clients represented by licensed paraprofessionals in certain matters. Limiting the services provided by a paraprofessional to clients under a certain income will prevent some middle-income litigants from obtaining services. Other programs we have seen roll out throughout the United States generally do not have an income limit for clients represented by paraprofessionals.

Overall, NFPA commends the Advisory Committee on its diligence to create a well-thought-out plan for paraprofessional practice, which we believe has great potential for success, and supports the plan.

Respectfully submitted,

NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS, INC.
400 South 4th Street, Suite 754e
Minneapolis, Minnesota 55415

/s/Maren Joyce Schroeder
Maren Joyce Schroeder, RP, MnCP
Director of Positions & Issues
positionsdir@paralegals.org

/s/Vanessa Laro
Vanessa Laro, RP, CRP
Paralegal Regulation Co-Coordinator

/s/Britt Curtis
Britt Curtis
Paralegal Regulation Co-Coordinator

/s/Lisa Lynch

Lisa Lynch, CRP, CEDS
President
president@paralegals.org

COLORADO SUPREME COURT
ATTORNEY REGULATION COUNSEL

Attorneys' Fund for Client Protection
Unauthorized Practice of Law

September 14, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, Colorado 80203

Re: Comments on Licensed Legal Paraprofessional Proposal

To the Clerk of the Supreme Court:

On behalf of the Office of Attorney Regulation Counsel, I'm writing to support the licensing of legal paraprofessionals ("LLPs") to provide limited legal services to clients in certain types of domestic relations matters. While the proposal submitted by the Advisory Committee through the work of various subcommittees may still need a few tweaks, I believe authorizing and regulating these non-lawyers will eventually increase the availability of affordable legal advice relating to marital dissolution and allocation of parental responsibility matters.

In 2016, the Court adopted nine objectives to regulate the practice of law, which are set forth in the preamble to Chapters 18 to 20 of the Colorado Rules of Civil Procedure. Number six is: "Promoting access to justice and consumer choice in the availability and affordability of competent legal services." Access to justice efforts have resulted in pro bono programs, less complex court forms, and pro se resource desks, which supplement family court facilitators in helping many individuals navigate domestic relations cases. At the same time, it has been painfully obvious to judges, lawyers and court staff that individuals who represent themselves struggle to understand court rules and processes, and cases can get bogged down through misunderstandings and errors. Simply put, accessing the court system is not the same as accessing justice.

During the process of sharing the LLP proposal with the broader attorney community, some individuals raised concerns that:

- "LLPs cannot handle all the complex issues that can arise in a family law case;"
- "LLPs cannot issue-spot like attorneys can;" and
- "Clients would be better off with an attorney, who can represent a client in all aspects of the domestic relations case as well as other collateral legal matters."

These statements are too general to be accurate, but there is some truth to all of them. LLPs would not be attorneys. The process of attending and successfully graduating from law school would not be the same as the training required of LLPs. The Uniform Bar Exam would cover much more substantive law and different skills than the exam proposed for LLPs. None of that changes the fact that attorneys—who often graduate with six-figure debt from law school—charge rates that so many individuals cannot afford. Those individuals cannot choose whether they "need" limited legal services or full-scale legal services. Instead, they make choices based on what they can pay for. And most of them decide they can't pay for legal services at all.

LLPs would be able to help these clients by filling out court-approved forms, filing them, helping clients understand the court process, and assisting clients in hearings. Utah's licensed paralegals generally charge hourly rates of $100-$150 an hour for such services. We can assume similar rates here. And because the Colorado LLP proposal limits the types of legal services that can be provided by an LLP, these representations necessarily have a more limited scope that likely reduces the number of hours billed to a client compared to a full-scope representation by an attorney.

A second set of concerns has been raised about the qualifications and competence of LLPs to perform the limited legal services proposed for domestic relations matters. Comparing the proposed "core competencies" for LLPs to those tested on the Uniform Bar Exam, LLPs will be tested on Colorado-specific requirements for which aspiring attorneys do not have to demonstrate competence. LLPs eventually will have to take and pass family law courses that aspiring attorneys do not need to take and pass. Simply put, concerns about LLP competence can be addressed by tailoring course work requirements, exam content, and CLE requirements, rather than simply assuming LLPs will be less-than-competent to perform their limited scope services.

A third set of concerns have been raised about the resources needed to implement and operate a program to admit and regulate LLPs. There certainly would be resources needed to develop an exam – approximately $60,000 according to one contractor – and likely additional resources needed to request changes to data systems to include LLP applications for admission and LLP registrations that populate the Co-Courts Electronic System. However, most states have experienced a fairly modest number of applications and admissions during the first few years of their analogous programs, and we expect a similar experience in Colorado that would allow us to launch with existing personnel. As the program grows, additional admissions personnel may be needed. Based on the very low number of ethics complaints about LLPs experienced by other jurisdictions, we do not expect a need to increase our regulation personnel.

LLPs also will pay into the system they are joining. They will pay admissions fees. They will pay registration fees. They will pay court filing fees. They will pay to take CLE courses. If they are subject to a disciplinary proceeding, they will pay the administrative fee as well as any allowable costs. While we should not expect LLPs to somehow pay all the costs of launching this program, we can anticipate at least some revenue from LLPs that will grow over time.

On a final note, I turn to whether clients of LLPs will be adequately protected under the proposed system. Defining "adequately" by comparison to the protection offered to clients who hire lawyers, the answer is yes. Based on what we have learned from other jurisdictions, most LLPs will choose to practice in firms with lawyers, where trust accounts and internal policies on client deposits already exist. LLPs who practice alone or with other LLPs will be required to maintain trust accounts and follow all the same money-handling rules as lawyers. All LLPs will be required to follow rules of professional conduct very similar to those governing lawyers.

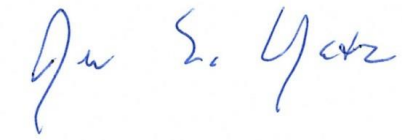
The least protective part of the proposed system is that clients who hire an LLP may forego having anyone advocate for them in hearings or other in-court proceedings. However, the working assumption is that the client who hires a Colorado LLP would not be able to hire a full-service lawyer, so they would have been pro se in court anyway.

Could an LLP theoretically mislead a client into believing that the LLP can do everything a lawyer can? Sure, it is always possible. Is the risk so high as to warrant not licensing these specially-trained non-lawyers for a limited scope practice at all? No. The proposed ethical rules for LLPs require disclosure to clients that the LLPs can offer only limited services. LLPs who flaunt these

requirements are likely to face public discipline, including suspension or disbarment. LLPs attempting to advocate in court or examine witnesses will quickly be called out by judges and opposing counsel. Further, the general public is unlikely to conclude that LLPs are the same as lawyers, just as it is common knowledge that nurse practitioners are not the same as medical doctors. While there may be initial confusion around the exact parameters of an LLP's practice, the name of the profession, the required disclosures, and other outreach should avoid any fundamental confusion about whether LLPs can do what lawyers do.

In sum, concerns about public protection have been a constant part of the focus of the proposal drafters. The LLP proposal has sufficient safeguards to justify the licensing of non-lawyers for the important services they would be allowed to provide.

Sincerely,



Jessica E. Yates
Attorney Regulation Counsel
Office of Attorney Regulation Counsel

September 14, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: Rocky Mountain Paralegal Association Comments Regarding Licensure of Legal Paraprofessionals

To Whom It May Concern:

The Rocky Mountain Paralegal Association ("RMPA") is a non-profit organization that was founded in 1973. RMPA was founded on the premise of organizing and promoting the paralegal profession in the Rocky Mountain region, with most of our membership based in Colorado. This letter is written in support of the Implementation Plan of the Licensed Legal Paraprofessional ("LLP") Program, which allows LLPs to provide certain types of legal services in domestic relations matters. With nearly 73% of domestic relations matters filed by people without the benefit of representation and/or access to general information and advocacy, RMPA regards the LLP as a distinct mechanism to help ease backlogs, streamline uncomplicated and non-contested cases, and make advocacy more accessible in matters that meet the licensure criteria. RMPA recognizes the implementation of a limited licensure as a welcome contribution to the community paralegals and legal paraprofessionals already serve.

LLP's can assist clients who view their matter as largely non-controversial, amicable and/or uncontested. They may also assist those who have simpler matters which require general guidance through judicial procedure. Anticipated LLP services to such clients will often include providing basic functions of form selection, form interpretation, and completion, process education, and procedural support. Whatever the driving forces may be, it is important to note that the prospective LLP client is an individual who is choosing between having the guidance of an LLP or "going it alone" as a *pro se* party.

RMPA invites the Court to consider the comparison between medical and legal services offered in Colorado and, specifically, how the LLP may be similar in nature and usefulness to the nurse practitioner. It cannot be denied that the services of nurse practitioners and even medical assistants have greatly reduced lack of access to timely healthcare. In much the same way, the LLP will be able to provide timely "legal care" to those who need it. Another example of this paradigm lies in

the fact Colorado is a direct access state -- meaning a patient does not need a physician's referral in order to receive specialized medical services, such as physical therapy treatment. An LLP can function in a similar capacity, and RMPA is hopeful that the State will be eager to provide such services.

RMPA anticipates that paralegals and legal paraprofessionals currently working in Colorado law firms who pursue the LLP opportunity, will be an integral part of implementing the LLP service to the community. In fact, there are current RMPA members actively serving on a Paraprofessionals and Legal Services ("PALS") Subcommittee working group to further implementation efforts.

Whether paralegals and legal paraprofessionals opt to work in law firms or in private practice, they already observe strict personal and professional ethical standards, exhibit high levels of discretion, and adhere to the regulatory guidelines of their field. Simply stated, paralegals and many legal paraprofessionals understand rules, roles, scope, discretion, discernment, conflicts, governance, solutions, complexities, responsibilities, propriety needs and limitations in domestic relations cases. Paralegals interact daily with the inquiring public and often see first-hand the barriers facing people of all backgrounds in obtaining competent and affordable help. They often find themselves unable to offer an alternative option to people at a time when they most desperately seek it. The LLP addresses a long-standing, unmet need that paralegals are intimately aware of.

As for their suitability to the task at hand, the LLP is a natural progression for family law paralegals and legal paraprofessionals who already serve as brainstorming partners, problem solvers, advocates, organizers, implementors and educators for both clients directly and the attorneys they support. Indeed, the Senior Paralegals at many firms have trained and supported generations of new counselors. Offering *direct* services to clients, within a framework designed to promote a partnership with attorneys is a logical step for Colorado citizens. We also invite eligibility to take MVL cases, pro bono cases generally and sliding scale and unbundled services thereby additionally enhancing the currently scarce resources.

RMPA agrees that suitability, education, training, oversight, and clear expectations are critical to the success of the program. The current practical experience requirements to become an LLP include 1500 hours of hands-on legal experience, of which includes 500 hours specifically in the family law practice area. It should be noted that this rigorous requirement is a higher practical requirement than even an entry level licensed attorney is required to demonstrate prior to assuming his or her first case. RMPA has a long-standing history of providing CLE opportunities to its members and asserts that this experiential requirement, coupled with ongoing CLE, is sufficient to meet the needs of the intended cases and clients. Currently, the RMPA has a number of eager paralegals who meet the proposed requirements and are ready to sit for a family law and ethics exam.

As it concerns oversight of LLP's in law firms, it is in the purview of the law firm employing an LLP to implement their own policies, best practices, and case management expectations just as they would ordinarily do for staff, paralegals, interns, and licensed attorneys. LLP's serving both within law firms and in private practice will be beholden to licensing requirements, insurance mandates, continuing education and rules enforced by the Office of Attorney Regulation in the same way that lawyers are.

In conclusion, paralegals and fellow legal paraprofessionals are the pin-point to solving Colorado's representation crisis. RMPA endorses the approved Implementation Plan and believes that

paralegals and fellow legal paraprofessionals are great candidates for the LLP license. This program, when implemented, will undoubtedly assist thousands of Coloradans to access to justice in their domestic relations matters for years to come.

Best Regards,

Kyle A. Melchior

Kyle A Melchior, At-Large Director
Rocky Mountain Paralegal Association

Written in collaboration with the RMPA Family Law Section.

Approved by:

RMPA President, Stefanie Trujillo
RMPA Executive Committee

Stephen B. Pacetti

9280 Yarrow Street, No. 4305
Westminster, CO 80021-8679

303-985-2475
sbp57@comcast.net

August 8, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

RE: PALS Plan (Licensed Legal Paraprofessional)

This is not the right fix for the problem. The problem is the *affordability,* of family law legal representation, not the availability.

Creating a new type of pseudo lawyer, with requirements for training, testing, licensing, regulation, rules, and administration—much at taxpayer expense—is cumbersome, bureaucratic, and complicated. It's the long way to the goal.

The shorter route could be:

Asking the Colorado Bar to lower their prices for family law. For example, not an hourly rate, but minimal fixed price.

Ask the high-rolling 16th Street firms to assign junior attorneys pro bono work in family law, for clients below a set income/asset base.

Absent the Bar's cooperation, then regulate/require pricing. That should get "their" attention.

Thank you

Sincerely yours,

Steve Pacetti

Stephen B. Pacetti

COLORADO FAMILY LAW PROJECT
YOUR FAMILY MATTERS

www.coloradofamilylawproject.com
1627 Vine Street, Denver, CO 80206

Maha Kamal, Esq.
Principal Attorney
maha@coloradofamilylawproject.com
Direct: (720) 224-3010
Fax: (720) 358-6003

September 14, 2022

Dear Justices,

The law exists to serve the people, not lawyers. This holds true for the field of medicine, too. It exists to help patients, not doctors. LLPs are akin to physician's assistants and nurse practitioners. These medical counterparts, too, faced resistance at the time both entered their field. Now, they are considered an integral part of a medical care team. Our paralegals and paraprofessionals are often much more experienced than junior associates joining family law. They play a critical role in mentoring and teaching our young or inexperienced lawyers. They should be able to practice on a limited basis to assist those with limited means.

I urge the Court, along with so many Coloradans, to move forward in implementing this program.

As a family law practitioner, I offer sliding scale unbundled services and full representation to clients in the Denver metro area. I realize many other family lawyers do not. My Firm alone cannot meet the demands of litigants requiring legal assistance who do not qualify for Colorado Legal Services. Other Firms limit their *pro* bono and *low* bono work. All while the mounting 70 to 80% statistic continues, year after year.

When representing sliding scale clients (at rates lower than most paralegals in law firms), I often interact with *pro se* parties. I also have a unique opportunity to work with judges managing a *pro se* party and one counsel. It is not an easy task, nor do these cases pay much. Moreover, they tax judicial officers juggling 400-500 open domestic relations cases. But my ability to advise the client and communicate with the opposing party no doubt influences the income. Often, these parties settle with a lawyer and a judge on the case.

I anticipate referring much of my sliding scale clientele to LLPs, enthusiastically. Many of my unbundled clients could afford an LLP to stay on their case, but they are limited to a few hours with me.

This limited licensure initiative would place Colorado at the forefront of a long-overdue push to expand our Access to Justice initiatives. This is a small step but a significant one. LLPs have contributed substantially to other states like Utah, Arizona, and Washington. You may hear criticisms of Washington, the first state to enact such a program. It didn't "fail," per se. Nor did it "fail" due to chronic malpractice issues or incompetence of LLLTs. The program was ambitious and demanded 3,000 hours of training. It sought to expand outside of family law, much to the surprise of other practice areas. Our initiative recognizes these faults, proposes a 1,500-hour requirement, and involves attorney supervision.

You may hear that this program is a "money maker" for academic institutions. Arguably, so too is law school. Some may say these LLPs will "dilute" the practice of law with "subpar" services. Yet, LLPs will endure training that no family lawyer must undergo to hang a shingle or start work at a family law firm. In addition, the LLP will have to obtain a qualified academic degree and take two exams that mirror our Bar Exam and Ethics Exam. These LLPs will hardly "dilute" a field that has no formal entry requirements right now.

You may hear that LLPs shouldn't arbitrate or mediate. Yet, plenty of well-qualified family law mediators and arbitrators aren't lawyers. Many of these non-attorneys have more experience than many family lawyers joining our Bar. Others claim that there is no data to support that LLPs will be more affordable. Yet, they have been directly directed to Utah's LLP (including rates) and invited to national roundtable discussions with other limited licensed states but declined to attend. The data supports that this initiative works, and is working in AZ, UT, ME, and throughout Canada. Other states are following suit, including California and New Mexico. We have the opportunity to embrace a new era of more affordable, accessible family law that recognizes paraprofessionals and our paralegals not as mere assistants, but colleagues.

The Family Law Section's proposal to limit the marital cap even further to $100,000 will price out too many Coloradans. With the housing market in flux, many will be priced out because of the high value of their homes. These values are illiquid, too. The cap should remain at $200k net marital for divorces. For custody matters, my sliding scale clients qualify mostly for a reduced rate if they earn less than $75,000.00. $100,000 could qualify if they have a large family and substantial debt. I urge the Court to consider income, family size, and debt for Allocation of Parental Responsibilities matters involving non-married parties.

The list of criticisms you've received do not provide solutions. It is easy to be an armchair critic. While current efforts in ATJ are commendable, the statistics of the 70-80% unrepresented march on through family courts, year after year.

I have been nothing less than proud to work alongside talented colleagues, including my co-chair Hon. Ret. Angie Arkin, Amy Goscha, Jessica Yates, David Stark, Hon. Adam Espinoza, Hon. Jennifer Torrington, Hon. Ret. Dan Taubman, Rebekah Pflaher, Colleen McManamon, and

Heather Lang. This program will help Coloradans understand the law and better access it to resolve their divorces and custody matters.

And after all, isn't that why the law exists?

Sincerely,

Maha Kamal, Esq.

Co-Chair, Paraprofessionals and Legal Services Subcommittee (PALS)
Co-Chair, Education/Outreach Co-Chair, PALS
Founding and Principal Attorney, Colorado Family Law Project

radeff & hart, pc
Attorneys and Counselors at Law

Chris Radeff
Andrew N. Hart
Rebekah Brown
Drew Thomas

July 31, 2022

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

Re: Licensed Legal Paraprofessional Program

Dear Justices of the Colorado Supreme Court:

As a Domestic Relations attorneys we write to urge you to reconsider the LLP implementation and to recognize the vast injustices this can cause domestic parties. We understand that affordable legal services are difficult to come by. This firm has regularly and consistently volunteered with Metro Volunteer Lawyers and its antecedent, as well as local programs in the 1st Judicial District where we primarily practice to provide free legal services to pro se litigants. Thus, we understand the problem of not enough resources and the need to increase those resources. However, LLP is not the answer and at the conclusion of this letter we offer a reasonable solution.

Many attorneys believe that domestic law is "easy" and not as difficult as criminal or civil. We challenge this assumption. There are multiple moving parts in any divorce case that make domestic law complicated, regardless of financial means of a client. A domestic lawyer must have knowledge in the following areas in order to advise the client either in settlement or hearing:

- Tax law: What are the State and Federal rules regarding child exemptions, daycare exemptions and other federally subsidized programs? Which party is entitled to them? If both, will one party net more than the other party and if so, should that amount be netted out or shared?

- Real Estate: Is there a bankruptcy? Who can claim the Homestead exemption? Will a Quit Claim Deed release a party from the mortgage liability? Does an assumption of the loan protect the party not retaining the home against the liability?

350 Indiana Street, Suite 200, Golden, CO 80401
Telephone (303) 985-8787 Telecopier (303) 989-7235
www.rhfamlaw.com

- Retirement: Are there tax implications if an IRA or 401(k) is liquidated to pay a property equalization? If you do so in the first year after divorce, do you know if you pay the 10% penalty for early withdrawal? How do you transfer money from an IRA to another party to avoid taxes? Is the IRA process the same as a 401(k)?

- If you receive maintenance can this affect your benefits you are currently receiving? Are you on disability, and if so, will maintenance affect your monthly benefit if you are on SSI or SSDI or both? Does the child's benefit for a parent on SSDI count in the child support calculation?

- As to children, can a parent relocate outside of the state of Colorado with the child? What are the standards pre-and post-decree? Does a child have a special need that affects not only parenting time but financial support?

- What does "imminent harm" and "endangerment" mean in the legal context of protecting a child?

- At what age do children hold their own medical privilege?

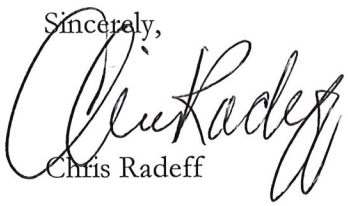
- Does the client need a GAL as required in *In re the Marriage of Sorensen, 166 P.3d 1254 (Colo. App. 2007)*? What are the constitutional issues that arise if a GAL is appointed? Can a GAL sign off on a Separation Agreement and Parenting Plan if the client refuses to sign those agreements? How does a lawyer/LLP ask for a GAL without violating confidentiality and privilege?

We are most concerned about the LLP being able to attend hearings with the party in some representative manner, as well as mediation. Matters affecting parties in divorce have an effect on many constitutional rights, including those of the right to travel and to raise their children. Would you really allow an LLP to represent a defendant in a criminal case with equal constitutional rights and guarantees at stake?

Which brings us to our final point. Becoming a lawyer is not just a job. It is a noble profession. We study hard, we work hard, and we try to do right by our clients. It is a privilege and honor to practice law. We suggest that instead of diminishing the importance of the role of an attorney by allowing non-lawyers to try to fill in the gap, that this Court make pro bono work mandatory. If every attorney in Colorado was required to provide up to 5 hours per year of free legal services in the area in which they practice law, those who cannot afford an attorney will have been better served with those five hours than any LLP program can. Add pro bono services it to our CLE requirements so that not only do we have to have ethics and EDI credits, but credit for serving our communities.

Thank you for considering our concerns. Should you need any additional information, please do not hesitate to contact us.

Sincerely,



Chris Radeff

Andrew Hart

350 Indiana Street, Suite 200, Golden, CO 80401
Telephone (303) 985-8787 Telecopier (303) 989-7235
www.rhfamlaw.com

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80203

September 14, 2022

To Whom It May Concern,

The Licensed Legal Paraprofessionals Implementation Plan is an important step in securing access to justice for Colorado families. Last year, 73% of of all Colorado litigants in domestic relations cases appeared without representation.[1] The fact that, according to the Judicial Branch's report, this number was "more or less consistent" with the percentage of pro se litigants, indicates that access to a lawyer remains financially inaccessible for the vast majority of people who need them in family court.[2]

As an organization that works to meet the legal needs of under-resourced families in Colorado, we know how challenging it is for people to secure affordable representation in domestic relations cases. We also know how obscure- and painful- the judicial process can be without it. We have provided unbundled legal services, including for domestic relations cases, for ten years. We've seen people benefit from even the smallest support we offer, like a return phone call or free consultation. This experience has made it abundantly clear to us that there is not only space, but real need, for more paralegal professionals in family court who can help people navigate the system and their options at affordable prices. Therefore, we enthusiastically support the mission and goals of the Licensed Legal Paraprofessionals Implementation Plan.

However, the text for this regulation includes several licensure requirements for LLPs that warrant some revisiting. As written, they establish significant barriers to entry that we anticipate will deter many potential LLP candidates from seeking a license. The slow and low numbers of people becoming LLPs in states that have implemented parallel legislation are evidence that implementing a plan that mirrors them exactly is unlikely to increase access to justice here in Colorado.[3] The stringency of the plan's admission requirements- namely those which call for significant financial investments on the part of LLP candidates- is a likely culprit for the slow uptick in LLPs in these states. Absent some revision, the current requirements may prevent the regulation from achieving its purpose.

---

[1] *See* Colorado Judicial Branch, "Cases and Parties without Attorney Representation in Civil Cases Fiscal Year 2021," Dec. 15, 2021, p. 4. The report is available here: https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/Research%20and%20Data/Cases%20Parties%20without%20Attorney%20Representation/Case%20and%20Parties%20without%20Attorney%20Representation-FY2021.pdf.

[2] *See id.*

[3] As of early May 2022, Utah has licensed 23 paralegals over 2 years. Washington has licensed 66 legal technicians over 6 years, and currently is not accepting new applications. Arizona held its first licensure exam in June 2021 and now has 17 licensed legal paraprofessionals. *See* Colorado Supreme Court Advisory Committee, "Licensed Legal Paraprofessionals Implementation Report and Plan," p. 5, available at https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/PALS%20attachment%201.pdf

At Elephant Circle, we know that the most zealous and sustainable advocacy is led by communities themselves. Many people in our networks would love to assist pro se litigants in navigating the family court system. However, many of the people who would have the greatest stake in, and the strongest passion for, the work of an LLP will not have the resources, education background, or professional experience necessary to meet the requirements as they are currently written. Furthermore, what we know from our advocacy work in the healthcare field, is that community-based resources, solutions and innovations are stymied by overly restrictive licensing schemes that reinforce the supremacy of the professionals at the top of the hierarchy to the detriment of the service-user.

We recommend that, rather than expecting candidates to locate a program at a law school that will (hopefully) prepare them for the LLP admission exam, the bar should provide free and accessible courses that are specifically tailored to the exam, and which people can attend without having to first apply and gain admission to a local law school. This would lower both administrative and financial barriers for many potential candidates.

We also urge the Committee to consider waiving the need to pay annual admission fees. Although a $190 fee may not seem significant for someone earning a law firm salary, this would be a significant financial commitment- and likely deterrent- for many of the people whom we believe would be ideal LLP candidates.

There already are programs- like Elephant Circle- that are working with community advocates to expand access to justice for pro se litigants. We urge the Committee to anticipate the ways in which, and minimize the risk of, these new LLP admission requirements could make it harder for the people working in this space to continue doing so. We are concerned that if this implementation plan is passed as-written, people who are already filling the gap in access to justice might need to become licensed in order to continue their important work. Many would not have the resources to go back to school in order to meet these requirements. This would leave the community we serve without a much-needed resource and force them to seek out an LLP who likely would not have the same level of insight and expertise into their experience that the community advocates who have been working in this space for years already possess.

We recommend that the proposed rule be amended to include a protective clause that would exempt from licensure requirements, or at least mitigate the penalties, for unlicensed community-based advocates who are already filling in gaps in access to justice for domestic relations litigants. For example, Section One of the proposed rule could be expanded to read “Licensed Legal Paraprofessionals (“LLPs”) are individuals licensed by the Supreme Court pursuant to this rule to perform certain types of legal services only under the conditions set forth by the Court. They do not include individuals with a general license to practice law in Colorado, *or unlicensed community-based advocates filling gaps in access to justice for domestic relations litigants*.” This would clarify that licensure requirements do not apply to community advocates who are not holding themselves out as LLPs.

Elephant Circle does strongly support the passage of a version of the implementation plan, as we believe that it has real potential to increase access to justice for the communities we serve. Thank you for considering the adjustments recommended above, and please don’t hesitate to reach out if we can provide additional materials or clarification.

Sincerely,

Anna Reed, J.D.

Legal Services Department, Elephant Circle

Comments concerning the proposed Licensed Legal Paraprofessionals rule.

I have read the documents put out by the Supreme Court committee(s) concerning the practice, licensure, and sustainability of the LLP program. These are my thoughts and suggestions concerning that program.

1. The program is a large undertaking with a stated expectation that not many will apply to become LLPs. 1,000s of hours have already been spent by dedicated volunteers to create a framework for this program of LLPs. Yet the final word by the workers and throughout the process was "better an LLP than nothing for these people." Are LLPs intended to help the bench or intended to help one of the parties? No survey of the consumers, a market survey, was ever done. The Committee surveyed lawyers and judges etc., but no litigants. How much money are these litigants willing to pay for some assistance in their case? My belief is that they are not willing to pay much at all…that's why they are in this by themselves.

The expressed need could largely have been met by a neutral coach, provided by the Court free or at a low cost for those who want it- not all will want it. The neutral coach can help with the paperwork and not offer legal advice. The neutral coach could assure the issues are properly presented to the court within the pleadings. The Court said doing this would help a great deal. Litigants could pay per pleading, flat fee, or not at all.

2. "LLP" is already taken with Limited Liability Partnership. Anything that has a "LL" in it is likely to pick up the nickname Lawyer Lite. Then again, that is descriptive.

3. Rule 2.4 Serving as a Third Party Neutral permits LLP to act as an arbitrator, yet nowhere is there required training for arbitration. The "Learning and Competency for LLPs" (A) (9) makes no provision for arbitration. Arbitration is what I call "a one-mistake sport" like skydiving. The opportunity for appeal is negligible, the rules are by specific statute and then are to be exercised by the arbitrator who has tremendous power. LLPs should not be arbitrators. The expectations are high, the training is non-existent and the room for irreversible error is large. An arbitration process is not a cheap or painless solution to be solved by installing a LLP.

4. LLPs should not do Qualified Domestic Relations Orders.

5. Currently the Exam Development document of the Committee (V) (b) calls for an open-book exam (VI)(b) with usually 50 questions. Somehow this seems inadequate.

6. The LLP system seems intended, in part, to be a "feeder operation" for a lawyer. The Ethics Committee used to strongly object to organized referrals to a lawyer or law firm. When the LLP can no longer act do they refer to their own law firm or give three names? They hooked the client at lower fees (called chumming in the fishing world) and now pass the client off to the lawyer presumably at a higher fee rate. The Court will have no way to monitor this.

7. LLPs should be required to carry malpractice insurance. This is not the full practice of law, and overstepping these many lines can have a serious consequence that they can't

fix as nimbly as an attorney might. Regardless, this is the Court's opportunity to protect the public. All practicing attorneys should also have malpractice insurance. All the "free" legal services carry it- MVL, CLS, other pro bono programs- and it seems the epitome of irresponsible for lawyers not to carry insurance. This is an opportunity for the Court to require a safeguard for a new legal process.

8. In the realm of collection law, there are more legal tools available than a motion to enter judgment and a garnishment. Are these additional tools available to LLPs or limited to attorneys?

9. Having an income limit to determine APR involvement by a LLP does nothing to assure that the case presents less complex child issues. An income limit may only relate to available resources to utilize within the case. LLPs will not make high conflict cases go away or be settled more easily. They will simply add a layer.

10. Unbundled legal services have been undermarketed by the lawyers and under-mentioned by courts and facilitators. This could have helped.

11. Was a pilot program a possibility?

12. The OARC says this will be a minimal cost to them, despite being required to maintain a separate office for LLP work. 11 volunteers seem to be in charge of the whole on-boarding process as the Licensed Legal Professionals Committee. That is a lot of work for volunteers.

Finally, I fear this proposed LLP program is a whole lot of work for very little bang for the buck. The numbers are expected to be small (unless that is merely a selling point to the legal community) and the qualifying requirements somewhat extensive. There were other options to try via pilot programs. It would be spectacular if this high manpower cost for development and maintenance program would help handle the courts' problems dealing with pro se litigants. The market research wasn't done. I am skeptical that the litigants will pay for this layer of service in numbers that will affect the court's problems in a positive way.

Bonnie M.J. Schriner

Bonnie M.J. Schriner #1049
4546 King Street
Denver, CO 80211-1328
303.887.9001
bonnie@bonnieschriner.com

SHAPIRO FAMILY LAW

8751 EAST HAMPDEN AVENUE, SUITE B-5
DENVER, COLORADO 80231
(303) 695-0200 FAX (303) 695-8154
WWW.SHAPIROFAMILYLAW.COM*

Laura E. Shapiro, Esq.
Haley Rheaves, Esq., Associate
Caroline M. Cunningham, Managing Paralegal
Adriana Martinez Rodriguez, Paralegal

September 14, 2022

Advisory Committee of the Supreme Court:

The Law Office of Laura E. Shapiro P.C. submits this comment in consideration of the proposed Licensed Legal Paraprofessionals ("LLP") program. While this office entirely understands the Committee's good intentions and appreciates the need for increased access to legal representation, this office is opposed to the LLP program and believe it is a disservice to the public for the reasons raised herein.

1. **Admission and Regulation**

The Committee details the standards for admission, including a written exam; this does not replace years of law school and bar admission. We encourage the Committee to develop an extensive written, closed-book exam to ensure competency. This exam cannot be limited solely to family law and must include other areas of law that frequently intersect with family law, including but not limited to real estate, taxes, civil procedure, criminal issues, constitutional, estate and probate law.

Also, considering that the Committee identifies LLPs as officers of the court, we emphasize the need for character-based screening prior to admission. As officers of the court, LLPs should be bound by the same ethical considerations as those attorneys must follow.

Should the LLP program be approved, we encourage the Committee to implement and require a uniform intake process to ensure that ample questions are asked to troubleshoot difficult issues and compliance with statutes.

Lastly, the proposal currently requires LLPs to complete 30 hours of CLEs. Considering that LLPs are officers of the court, they should also be subjected to the same CLE requirement as attorneys.

2. Concerns with LLP Practice

The Committee provides parameters for LLPs to practice within; however, even with the proposed limitations, this proposal assumes that there are "simple" family law cases.

The Committee proposes a net marital estate cap of $200,000 for dissolution of marriage cases and has yet to provide an income cap for APR cases. Even with a net marital estate of $200,000 there can be complicated issues such as tax considerations, division issues, employability issues and the list goes on. For dissolution cases, determining the net marital estate at the onset of the case requires the parties to accept values for both debts and assets at onset without the benefit of disclosures required by C.R.C.P. 16.2. This eliminates the parties' ability to challenge values. Further, if there is a dissipation of assets argument, it is unclear how the court will determine the net marital estate.

For APR cases, a party's income is not reflective of the case issues. This office is concerned with the fact that the LLP will be able to take an APR case based on a party's income, rather than the substance of the case itself.

In our experience, even the apparently "simple cases" can involve intricate and complicated legal issues that require complex legal analysis, and these issues are not directly tied to the size of the net marital estate or a party's income. For example, we have a case where the incomes are not high, but the parties married and divorced each other several times. In that case, prior property divisions as to the same assets had to be examined carefully. As raised above, the LLP proposal greatly oversimplifies family law cases. The net marital estate or a party's income alone cannot justify eliminating legal representation and permitting LLPs to handle cases. This office understands and appreciates the need for people to have representation; however, this solution is ill considered. It is entirely possible for the net marital estate of less than $200,000 to include assets, debt, businesses, a trust, etc. For example, a case may involve a business with assets but has an exorbitant amount of debt that reduces the net marital estate below $200,000. While under $200,000, this example requires complex legal analysis and diligence as well as possibly forensic assistance.

It often happens that "simple case" become a complex as the case moves along. These cases may slip through the cracks of the Committee's proposed filters and has the potential of leaving clients of LLPs lost at sea when their "simple" case grows outside the bounds of the LLP's scope. Look at *Loving v. Virginia*, for example, could a paralegal handle those constitutional issues? With a low asset case, could an LLP handle a relocation case? While the court can allow a LLP to continue for good cause shown, we are still concerned that an LLP will miss issues, fail to make the required observations and reach faulty conclusions. There are impactful considerations that non-attorneys may not spot. Attorneys are trained to spot, analyze, and address legal issues that overlap with other areas of law, including but not limited to civil procedure, ERISA, constitutional, criminal, commercial, property, tax, immigration, bankruptcy, insurance, securities, and international law:

1. *Griswold v. Connecticut*, 381 U.S. 479 (1965)
2. *Loving v. Virginia*, 388 U.S. 1 (1967)

3. *Dobbs v. Jackson Women's Health Organization, et. al.,* No. 19-1392 (2022)
4. *Troxel v. Granville*, 530 U.S. 57 (2000)
5. *Obergefell v. Hodges*, 576 U.S. 644 (2015)
6. *U.S. v. Windsor*, 570 U.S. 744 (2013)
7. *Golan v. Saada*, 20-1034 (2022)
8. *Shapiro v. Thompson,* 394 U.S. 618 (1969)

This also includes complex issues within family law, such as third-party intervenors, enforcing a pre/post-nuptial agreement or arguing that the agreement is unenforceable*, Sorenson* concerns, and punitive motions.

Also, attorneys are well versed in understanding and dealing with prior actions involving the same parties and the effect that might have on property division (such as asset traceability), separate property issues, and retirement and pension issues. Even more importantly, trained family law attorneys are attuned to understand and address issues regarding children, including emergency motions concerning the child's/children's welfare. Considering LLPs are permitted to practice without attorney supervision, it is especially concerning in that critical issues that have the potential to drastically impact the outcome may be minimized or entirely missed.

Furthermore, the proposal allows LLPs to engage in factual advocacy and precludes LLPs from engaging in legal advocacy. Considering the interplay of factual and legal advocacy in family law, this office is greatly concerned that individuals represented by LLPs will be placed in a peculiar predicament during a hearing that requires application of the facts to the law. The very same concern applies during mediation, and begs the question: when does factual advocacy become legal advocacy? For example, a factual and legal analysis is undertaken when determining whether to apply the best interest or endangerment standard. How does a LLP assist the client to navigate this when the factual and legal inquiries are intertwined? At this point, it appears that the client must navigate the legal argument as if they are *pro se*.

The proposal discusses the use of non-lawyer professionals, such as real estate agents and CPAs, to assist in mediation; however, this further simplifies the dissolution of marriage process and allocation of parental responsibilities. In our experiences, there are follow up inquiries and/or potential corrections to appraisals and/or reports that LLPs may not have a trained eye to catch. This will ultimately lead to appeals and further legal problems and work that could have been avoided.

Lastly, this office is further concerned about potential imbalance if one party is represented by a LLP and the other party is represented by an attorney. There in itself exists an imbalance in representation that could result in unfair results. We encourage the Committee to implement a rule that mitigates the impact.

3. LLP Fees

The Committee provides rules governing LLP fees and costs. Considering that the underlying purpose of the LLP proposal is to increase access to justice and legal representation, we suggest a statutory cap be placed upon the LLPs hourly fee. It is entirely possible that a LLP could

charge the same, if not more, than an attorney for legal representation. This would undermine the purpose of the LLP proposal.

4. LLPs as Third-Party Neutrals

The LLP proposal authorizes LLPs to act as third-party neutrals, including as mediators and arbitrators. This is very concerning given that the LLP does not possess the same skills and judgment as attorneys and/or retired judges who serve as mediators and arbitrators. LLPs should not be permitted to serve as third-party neutrals in any capacity. The Office of Dispute Resolution offers these same services at a lower rate to achieve the Committee's purpose.

Further, cases that are mediated and arbitrated often involve legal arguments that the LLPs are not permitted to analyze. Mediation and arbitration involve candid legal and factual negotiation. With arbitration, the LLP would be drawing legal conclusions and making binding decisions based upon the law. As such, it is counterintuitive for LLPs to be permitted to engage in legal advocacy/application as a third-party neutral, but not permitted to make legal arguments in court.

5. Supervision of LLPs

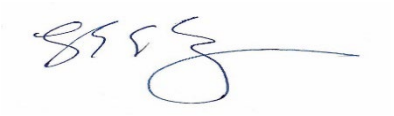
The LLP proposal provides that LLPs can practice with or without attorney supervision. While well-intended, we have concerns with this aspect of the proposal.

The proposal explicitly states that LLPs would largely be self-governing. Without attorney supervision, we are concerned that LLPs would be engaged in the unauthorized practice of law. Additionally, there is a real concern that LLPs may give inaccurate advice or incorrectly interpret law. Without supervision, it is entirely possible that LLP clients would be placed in a worse position than they found themselves at the beginning of the case.

As such, we believe the Committee must implement a supervision requirement that requires LLPs to be supervised by a licensed Colorado attorney.

We appreciate this opportunity to submit our written comment and to attend the August 9, 2022 Town Hall. We believe the Committee has undertaken a critical project to address the widening justice gap. While we appreciate and understand the Committee's proposal, we respectfully provide our observations and suggestions based upon our experiences. We welcome any future opportunities to further participate in this conversation.

Sincerely,



Laura E. Shapiro, Esq.
Haley M. Rheaves, Esq.

ANASTASIA SLATON

Arvada Co · 720-301-9475

Honorable Brian Boatright
Supreme Court Chief Justice
Supreme Court
2 E. 14th Ave
Denver Co 80202

CHIEF JUSTICE BOATRIGHT,

Tuesday August 22, 2022
RE: Proposals for PAL-LLP-LAP

On behalf of myself and families of the broken family court system, as well as average Americans who are aware of the unethical conduct of divorce lawyers, I have collected signatures from people (in Colorado) who share my concerns with the proposed PAL/LLP/LAP. This letter will address the concerns and identify many outcomes that will not benefit the families involved.
Additionally, included I am including input to create a "better way" to help the 75% of families going through the administrative process of divorce. These changes will reduce costs and interpersonal conflict while increasing efficiency and stability for families without the prohibitive use of attorneys. Another purpose of this letter will identify the need to recognize that licensure does not require training and vetting by the courts. The courts must not create a monopoly on family court litigation when qualified individuals and businesses having limited scope of law could effectively help families, regardless of the family's "net value." There are already plenty of professionals in these administrative courts that provide zero recourse to the client when they commit crimes, violations of human rights and public health and safety standards. Last, I will point out that changes of this magnitude should be a legislative issue, along with citizen input, and not a Supreme Court ruling.

The PAL has been created as a way to deal with the rising numbers of Americans choosing to forego attorneys in the administrative process of their divorce. Divorce does not need to be adversarial or litigated. Escalating conflict through litigation is a primary goal of lawyers in divorce. Americans are well aware that family lawyers generate profitable litigation through their monopoly of the rules and statutes that they write into divorce creating "law" in the administrative court. The preliminary report from the BAR refers to this increasing migration away from lawyers as a "gap in justice." My questions as a mother who spent almost fifteen years being harassed in a divorce court room over a marriage that lasted one-and-a-half years are "Who is experiencing a 'a gap of justice'?" Is it the families involved? Or is it the attorneys and ancillary professionals involved in disruptive, protracted litigation?" As I read these

proposals, it became clear that the purpose of PAL is to create a niche for people without law degrees to practice law, but only in divorce cases, like a mini divorce lawyer, or quasi lawyer. It appears in the Denver Post article dated August 7, 2022, "Non attorneys practicing law?" by Shelly Bradbury, that Colorado is "ey[ing]" a new legal license to offer affordable advice in divorce, child custody cases." However, such licensure will not be regulated by DORA. The public is being misled by the terms and facts of licensure. PAL person would become a member of the BAR but not have a state license. This misrepresentation is also true with other court-appointed persons such as mediators. Paraprofessionals will have the qualifications set by the BAR, trained by the BAR and pay their yearly membership to the BAR. This status is the same for mediators who also do not hold state licenses. Mediators should not be BAR members nor should any training come from the BAR, training from the Bar destroys impartiality and create the opportunity to racketeer. With all this training by the BAR these professionals cannot seem to successfully moderate divorce issues. Is another BAR-trained cadre the proper way to continue to move forward in helping people through an administrative process? Another interesting fact is that other experts appointed by the family court who are required to carry a license with DORA in their practice outside a family court appointment, such as CFI's and PRE's, are excluded from oversight when a complaint is filed with DORA inside the divorce. Therefore, mechanisms billed as offering relief are systematically removed. The BAR is involved in the training of all of the professionals to control the narrative

On June 14, July 8, and August 12th public statements were made to the Interim Committee on Judicial Discipline about the horrific process of trying to file any type of ethical concern or complaint against any of the people creating these rules against judges. Judicial complaints are handled with extreme bias, and the Code of Judicial Ethics does not address Constitutional violations, human rights atrocities, or health and safety issues. So many complaints are dismissed that the process is futile.

The 75% don't want to engage in these litigations that profit lawyers and ruin families. This plan states "the challenge to get more families into litigation continues." The proposal goes on to talk about this 75% must not be able to afford litigation. However, the report submitted does not support this statement; for example, there is no research cited regarding the number of people who filed a JDF 205.

The PAL rationale identifies that divorce lawyers don't do pro bono, and other lawyers are reluctant to enter divorce cases. Everyone knows the elephant in the room regarding the money these cases make. Often in high-assets cases Lawyers advise clients to sell all assets and put the cash into a trust fund, held in one of the attorneys' offices. The lawyers, of course, are the first to be paid from the trust fund upon the court's ruling.

The net value of $200,000.00 is problematic. Is this a strong arm to force the 75% to the profit table with zero oversight? This seems apparent with the $200,000.00 combined net marital assets cap, unless the paraprofessional practices hand in hand with a lawyer. Those who wish to practice independently would not be allowed to take these cases, but those working for an attorney could. They are all trained the same, so why this rule? On the client intake provided the first three-and-a-half pages are about money, the next two pages on children, and no questions are asked about any agreements made by the couple to date. This focus indicates an intention for using the PAL to find high-asset families. By the time, PAL personnel are unable to

reach resolution, the case now goes to an attorney where it can be considered a "high-conflict" case.

PAL states, "They should not have to choose between a lawyer and no lawyer," especially in the administrative courts and I agree. There is a third choice that would break up the racket and help families through the administrative process. This would be a consultant licensed by DORA. If this professional would have experience and/or training, and could pass a test showing the understanding of needed documents as well as the knowledge of what the limited scope of law would be in their role should not be excluded from working with clients regardless of the family's value. According to Judge Angela Arkin, on July 26, 2014 at 12:40 p.m., in the Arapahoe County Courthouse, "Courts are not the best way to solve family issues."

In 2013 I drafted a business plan where I mediated, consulted and completed data entry to the documents required for a divorce by the administrative court. People prefer a self-directed divorce that meets the need of both people instead of the intrusion of the profit-oriented legal industry. Most people can figure this out themselves. Sometimes all they need is a consultant to help reach a mutual agreement in divorce. The rising 75% can handle this process without lawyers, again regardless of income. If self-help was more user-friendly, this process would be even easier for the average person. There is no practice of law required to process a divorce!! I have twenty-two years' experience with this industry.

A professional consultant can help the current 75% do what the administrative courts need. Family law software would have to be reconstructed for this roll to ensure consultants are working within a limited scope of law that would be defined during the training process. This less legal approach supports the true intention of this proposal. Which is to help families through the administrative process, while helping the judges handle these cases more efficiently.

Why is the Supreme Court developing of a new subset in the already failed family court system? Higher State courts and Federal court dismiss family court cases without ruling on them. This process for change should be led by legislators, not actors who are generating litigation. Experts outside of the legal system should be included in the design for change. I am proposing a solution that does not create a conflict of interest nor an environment of aggression and harassment.

Why would anyone allow such a large extended scope of law to a non-lawyer in an industry that is clearly on the hunt for more clients, with an ethics committee that ignores alarming complaints about them and the experts appointed by them. Where is the better value for the family? In the BAR proposal? or in mine?
Sincerely,

Anastasia Slaton

Shawn K. Araje
Name

9/6/2022
Date

In support of

Anastasia Slaton's letter to Honorable Brian Boatright RE: Proposal for PAL-LLP-LAP dated August 22, 2022

Sharon K. Araji 9/6/2022

Name Date

COMMENTS:

As an academic, I have watched many families and children harmed by the biased court system described by Ms. Slaton. I have given presentations at conferences + other organizations. I have published articles and produced a documentary on this issue in "Domestic Violence Continued: Contested Child Custody."

~~Name~~ ~~Date~~

COMMENTS:

Name Date

COMMENTS:

Name Date

COMMENTS:

Name Date

COMMENTS:

faegredrinker.com

David W. Stark
Senior Counsel
david.stark@faegredrinker.com
+1 303 607 3753 direct

Faegre Drinker Biddle & Reath LLP
1144 15th Street, Suite 3400
Denver, Colorado 80202
+1 303 607 3500 main
+1 303 607 3600 fax

September 14, 2022

VIA E-MAIL SUPREMECOURTRULES@JUDICIAL.STATE.CO.US

Brian D. Boatright
Chief Justice
Colorado Supreme Court
Colorado Supreme Court, 2 E. 14th Avenue, Denver, CO 80203

Re: PALS implementation report and plan

Dear Chief Justice Boatright:

The Colorado Supreme Court should approve the PALS implementation report and plan because it will provide additional access to justice to those 47,000+ self-represented parties who try to represent themselves each year in Colorado Domestic Relations cases. The plan will also greatly improve the quality of justice for all parties and stakeholders in those cases.

The report and plan provide a method of producing well qualified and regulated Licensed Legal Paraprofessionals (LLPs) who can give legal advice and counsel in less complicated Domestic cases to those who now must or choose to represent themselves.

The self-represented parties referenced above constitute approximately 74% of all parties in 2022 Domestic cases. This creates a critical access-to-justice issue for those parties and an equally critical quality-of-justice issue for our judicial system. Our subcommittee has spoken with Domestic Relations Judges, currently on the bench and part of our subcommittee, as well as lawyers with a Family Law practice, Family Court Facilitators, and citizens who tried to represent themselves. All believe that the time has come to take action to begin to alleviate this crisis.

Other states and Canadian provinces agree. Utah and Arizona have started their programs, although they are more ambitious than what we propose. Washington state has had a program for many years and now has over 60 Limited Licensed Legal Technicians. That program was "sunsetted" by a 3 to 2 vote of the Washington Supreme Court, but the LLLTs are still licensed to practice and many in that state believe the full program may return soon.

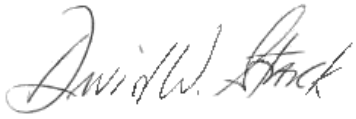
Several us on the subcommittee meet monthly with representatives from states and provinces from Oregon and Manitoba to North Carolina, California, and Connecticut. All are enthusiastic about their proposed or authorized programs and believe this is a trend that is gaining momentum across the country.

Clients and the public will be protected by the requirements of this program. A qualifying applicant would need to meet certain educational requirements and complete 1,500 hours of substantive law-related experience within the three years prior to the application, including 500 hours of substantive law-related experience

in Colorado family law. All LLP applicants would be required to take and pass a substantive exam on Family Law demonstrating sufficient knowledge in the core competencies of this practice area, as well as an exam on the rules of professional conduct we have drafted for Licensed Legal Paraprofessionals. Of course, LLPs would also be required to clear a character and fitness investigation. just as attorneys must do. Thus, LLPs would be regulated to the same degree as lawyers and would be subject to grievances for misconduct and suits for negligent or fraudulent conduct. The LLP Rules of Professional Conduct would require an intake form for LLPs so that the LLP can determine if the matter falls within their limited jurisdiction; a written disclosure to the client describing the limitations of the LLP's practice, see LLP Rule 1.2 (c); and a requirement that the LLP refer the matter or a portion of the matter to a lawyer when it is outside the LLP's jurisdiction, see LLP Rule 1.1. There are many other provisions and protections for clients, stakeholders, and the system and all are included in the comprehensive implementation plan.

As the Chair of the Supreme Court Advisory Committee on the Practice of Law, I along with many of my colleagues on the subcommittee, have worked on this program since 2015. We have considered and researched various models and practice areas and believe this is the best plan to provide access to justice and quality of justice to deal with this part of the ever-widening Justice Gap. I hope you and the entire court will approve this program for implementation in the near future.

Very truly yours,



David W. Stark

US.352448502.02

Matthew Stewart
3816 Zuni St
Denver, CO 80211
CO Bar # 56527

August 31, 2022

Colorado Supreme Court
2 E 14th Avenue
Denver, CO 802023
supremecourtrules@judicial.state.co.us

RE: PALS Implementation

To whom it may concern:

I am writing today to express my opposition to the implementation of licensed legal paraprofessionals, LLP, program. I think the LLP program creates an undesirable position for candidates, because of the burdensome requirements, the limitations on an LLP's practice, and the limited potential rewards. In addition, I think that the intended clients of the LLP program would be better served by fully licensed attorneys.

The proposed requirements to become an LLP are onerous. The LLP candidates must have at least an associates degree in paralegal studies, or fifteen hours of paralegal studies after an undergraduate degree. (Attachment 1, p. 70). Then, candidates must complete "1500 hours of substantive law-related experience, including 500 hours of substantive law-related experience in Colorado family law." (Attachment 1, p. 70).

Then, candidates take at least a semester of LLP classes. One of these classes is a Family Law class, which the proposal suggests would be a three-hour course. (Attachment 1, p. 70). In this class, candidates are expected to master a set a "Learning and Competency Outcomes" that includes an extensive list of family law procedures in Colorado statutes. (Attachment 1, pp, 52-55). This list also suggests that LLPs should have knowledge of the discovery process, some rules of evidence, and some case law. (Attachment 1, pp. 52-55).

Then, candidates will take a version of the bar exam. (Attachment 1, pp. 60- 63). LLP candidates would apply to take this "mini-bar exam" in a process that "would likely parallel the application for attorney admission," including the character and fitness component. (Attachment 1, p. 13). This exam will have multiple choice and essay components, both in an ethics and a family law section. The proposal presents the argument that this exam should be closed book. (Attachment 1, p. 63). The LLP proposal includes a shortened version of the Rules of Professional Conduct, (Attachment 1, pp. 97-182), so it seems reasonable to infer that the ethics component of the test could be modeled on the MPRE.

After completing their studies, LLP have licensing requirements that are similar to those for fully licensed attorneys. The proposal sets an annual fee for an LLP license at $90 per year for the first three years, and $160 per year after the third; full attorneys are required to pay $190 a year for the first three years, and $325 per year thereafter. (Attachment 1, p. 14). LLPs will need to complete 30 hours of continuing legal education in five years; full attorneys are required to complete 45 hours of CLE every three years. (Attachment 1, p. 15).

After all this training, LLPs would be stuck in a junior attorney role, and limited to only this family law practice. LLPs will be able to represent parties with net marital assets of less than $200,000. However, if the cases involve any of a number of complications, LLPs need to refer cases to a fully licensed attorney. (Attachment 1, p. 29). Even if they gain years of experience, LLPs would only be "authorized to engage in a limited scope of practice of law." (Attachment 1, p. 3). In the other states that have implemented LLP programs, "many if not most" LLPs practice at firms with fully licensed attorneys. (Attachment 1, p. 10).

The LLP program's stated goal is that these "that legal services may become more widely available and more affordable." (Attachment 1, p. 1). LLPs, as "junior attorneys," may help reduce costs, but only because of the limited earning potential of LLPs.

The Colorado Judicial Branch reported that there were over forty-seven thousand pro se litigants in Domestic Relations matters in 2021. Their report notes that this data is compiled to help courts better anticipate and serve the needs of those seeking the services of the courts." (https://www.courts.state.co.us/userfiles/file/Administration/Planning_and_Analysis/Research%20and%20Data/Cases%20Parties%20without%20Attorney%20Representation/Case%20and%20Parties%20without%20Attorney%20Representation-FY2021.pdf, p.7). This concern comports with a concluding thought from the executive summary of the PALS report.

> While different stakeholders offer varying perspectives on the scope or nature of the problem, no one has disputed that a significant number of pro se family court litigants would benefit from receiving legal advice and assistance that they currently do not receive. (Attachment 1, p. 25-26).

At present, volunteer organizations like Colorado Legal Services and Metro Volunteer lawyers represent clients in Family Law matters all over the state. Clearly, there are attorneys who are willing to take on these cases, even as volunteers.

I am a first-year attorney, and I have been volunteering for Metro Volunteer Lawyers for a few months. In that time, I have represented ten clients in Permanent Orders hearings, and helped fifteen others draft the paperwork required for their hearings. In my limited – but I believe relevant – experience, I can say that many clients only need a few hours of assistance, and every client asked some questions that were outside the scope of the family law matter at hand.

I think the LLP proposal does not address the most significant part of the pro se problem in Colorado family law litigation. We have plenty of attorneys willing to do this work. We need to find some way to pay for it.

I believe that we need an office of "Public Counsel," akin to our Public Defender offices. The need for a similar office has been recognized in Colorado; the Office of Respondent Parents' Counsel represents indigent parents in child welfare proceedings. Colorado has strong examples of state-wide agencies to serve as models for such an office with the Office of the Public Defender and the Office of the Alternate Defense Counsel.

In very rough numbers, if there are fifty thousand pro se litigants in domestic relations cases per year, and if each case required four hours of attorney time (very likely a conservative estimate), we would need one hundred full-time attorney positions. May as well swing for the fences. As every PD's office has shown, we could likely address this workload with forty full-time attorneys and thirty paralegals.

Alternatively, this work could be addressed through fellowship programs, either through the county courts or local law firms. The proposal already includes a program to find potential mentors and award CLEs for their work. (Attachment 1, p. 95-96).

However we may fund this work, these cases could provide helpful training for attorneys in the practice of family law. Much like a misdemeanor or Municipal criminal docket in criminal law, the cases can help attorneys collect the courtroom and client management experience that more complicated cases require. I'm grateful for the opportunity that Metro Volunteer Lawyers has provided to gain this experience and to help clients.

To summarize, I believe that if the Colorado courts wish to address the pro se issue in family law courtrooms, we need to pay for legal assistance from fully licensed attorneys for the pro se litigants. I do not think the problem will be addressed by creating and institutionalizing an LLP program, which would create an undesirable junior attorney position for those who pursue the LLP license.

I appreciate the opportunity to comment on this proposal.

Respectfully,

Matthew Stewart

Attachment 3

Table of Contents

Document A: Letter Drafted and Sent from the Highland Place Residents Anonymous Email Account

Dear Highland Place Stakeholders and CMB Investments Partners,

The stakeholders of Highland Place need and rely on each other. The tenants rely on BLDG Management for safety, security, and maintenance of property. BMC Investments relies on the tenants of HIghland Place to pay their mortgage, ensure access to credit, and to further invest and develop to increase their profitability and portfolio. The tenants of Highland Place have upheld their responsibilities: not damaging the property and paying BMC Investment's mortgage. BLDG Management has not upheld their responsibilities of ensuring safe, secure, and properly maintained housing.

There has been an egregious display of neglect in performing emergency and non-emergency maintenance repairs at Highland Place, resulting in the theft of vehicles, bicycles, mail, and medication of Highland Place residents. We have notified building management in writing of all of these issues, and have exhausted individual advocacy to remedy these concerns. Management's lack of attention to these safety issues has caused continued concern among residents, that still has not been addressed. We believe that some of these instances are a violation of Colorado's Warranty of Habitability law.

Beyond maintenance issues, security and safety issues have been ignored. Most recently, on Monday, June 27 in broad daylight, a resident's truck was stolen from the paid, "secure" parking garage, and used to commit homicide. It is well known to residents, management, and the surrounding community, that Highland Place is not secure. Beyond this, Highland Place management has continually disregarded or not fully responded to Denver Police Department requests for video footage of these thefts. We have become a target for crime.

Below are a list of demands.

#1. Install an automatic closer on the back gate, as well as increase the solid steel plate size on the door to prevent manual release of the push bar through the grating or replace the grating with a percent openness 50% less than is currently installed. Additionally, ensure the keyless access panel is operational. It is widely known among community members and residents that one can reach their arm through the gate in order to open it, guaranteeing entry into the building, garage, and mail area. Minors regularly break in and run on the undeveloped portion of the roof, exposing BLDG Management and CMB Investments to litigation. This issue has been brought to management's awareness for at least 1 year, if not longer. This door is in violation of C.R.S 38-12-505(1)(b)(XI) and C.R.S. 38-12-505(1)(b)(XII).

Screenshots of notifications of these issues on the official Highland Place maintenance portal are attached.

#2. Install key fob security to the door leading from the common area to the community patio. Unhoused people regularly sleep in the common area. An open entrance to the building is a violation of C.R.S 38-12-505(1)(b)(XI) and C.R.S. 38-12-505(1)(b)(XII).

#3. Ensure all common entry doors have operational latches. (This includes all exterior doors as well as fire stair doors on every building level.) Ensure proper closure after latch release. Unhoused people regularly sleep in our stairwells. Nonworking door handles and locks are a violation of C.R.S 38-12-505(1)(b)(XI) and C.R.S. 38-12-505(1)(b)(XII).

These three mentioned safety issues impact our safety in our individual units, as when there are three insecure entries into the building, the entire building is insecure. People can easily break into individual apartments with this reduced security. Additionally, people with felony charges and warrants out for their arrests have been able to break in and walk around out building, putting everyone at risk at all times. Many of us have had trouble sleeping due to fear of our safety, especially after learning about the event on June 27th.

#4. Install smart lockers along the elevator entrance wall, as there appears to be sufficient square footage for this. Manufacturers of these systems are plentiful and can be found through a variety of commercial real estate resources. Countless packages, medications, and more have been stolen from residents. Management has refused to propose any solutions, nor review security footage, nor install cameras specifically for this purpose.

#5. Notify all residents of crimes occurring in the building or premises, including the retail garage, within 24 hours of the occurrence.

#6. Ensure residents have access to the building at all times. This includes connecting the electronic access to a battery backup during a power outage.

BLDG Management and BMC Investments have until Monday, July 18 to respond by email and begin implementing solutions to these demands. Please communicate with all residents the progress of these safety and security measures as they happen.

If no response is given, if implementation of solutions are not made when promised, or if residents deem the response or proposed solutions inadequate, the following will occur, in no particular order:

#1. Residents will file complaints with the real estate commission against Jeremy Ortega, Ashley Jefferson, Jarrett Posner, Matthew Joblon, and Josh Mesner, among others.

#2. Residents will work to align BLDG Management and BMC Investment's reputation with their lived experiences. We will also inform Oak Bridge Properties and Rockpoint, and their institutional investors, of our experiences. Additionally, we will direct them to the lived experiences of tenants of Ivy Crossing and other class C and D properties.

#3. Residents will begin and continue to report the numerous safety, security, and maintenance concerns to the Health Department. The Health Department has already been notified about the ongoing issues.

#4. Residents will contact local, state, and national news media.

#5. Residents will complaints with the Better Business Bureau against BLDG Management and BMC Investments, as well as report their concerns to the Apartment Association of Metro Denver and the Colorado Apartment Association.

#6. Residents will work to inform tenants of other BLDG Management Properties of their rights.

#7. Residents will file complaints with HUD about poor maintenance, dangers to health and safety, and mismanagement, and reach out to other building tenants to inform them about their right to report.

#8. Residents, community members, and businesses will legally protest outside of Matthew Joblon's home and work to ensure media coverage.

This is not a comprehensive or complete list of remedies that may be sought by residents to ensure their legally protected right to safe, secure, and adequately maintained housing.

Beyond maintenance and safety, we realize that we are not alone in our experiences. Looking at reviews of other BLDG Management buildings, our experience is common. At almost every other apartment complex residents complain of cockroach, bedbug, mice, and rat infestations, mold, asbestos, going weeks without hot water, illegal evictions during the COVID-19 eviction moratorium, police shootings resulting in deaths, and waiting weeks or months for serious maintenance issues that violate the warranty of habitability.

A response is expected by Monday, July 18, in writing, to this email address. Implementation of noted issues should be updated as they occur to all residents.

Please note that residents are blind copied to this email, and any response received will be distributed and discussed.

Any members of BLDG Management or BMC Investments that would like more information about what is going on are welcome to reach out for more information.

Thank you for your time, attention, and urgency,

Highland Place Residents

Document B: Letter Received from Attorney

Brownstein

Brownstein Hyatt Farber Schreck, LLP
303.223.1100 main
410 Seventeenth Street, Suite 2200
Denver, Colorado 80202

July 18, 2022

Jonathan G. Pray
Attorney at Law
303.223.1211 direct
jpray@bhfs.com

VIA EMAIL ONLY: HIGHLANDPLACERESIDENTS@PROTONMAIL.COM

RE: July 13, 2022 Email Alleging Breach of the Warranty of Habitability at Highland Place

Dear Unidentified Highland Place Residents:

This firm represents BLDG Management ("BLDG") with respect to your July 13, 2022 email (the "July 13 Email") in which you make a litany of baseless claims, unfounded demands, and unlawful threats against BLDG related to the security at the apartment complex known as Highland Place (the "Property"), in which BLDG is the property manager.

As an initial matter, your email purports to be notice under C.R.S. § 38-12-503, the Colorado statute governing the warranty of habitability. The statute requires notice to be sent by a "tenant," however, and does not permit tenants to conceal their identity with an anonymous email account. Thus, your failure to identify yourself or the unit(s) in which you reside renders your notice ineffective as a matter of law.

In addition to your July 13 Email not complying with the applicable statutes, your baseless threats within the letter are directed at the wrong party. As the lease agreements for this property expressly state, BLDG is a third-party property manager and agent that has no ownership of Highland Place. To the extent there is any breach of your thus far unidentified lease agreements, including but not limited to any breach of the warranty of habitability, that is an issue between you and the owner of the Property, Colorado Regional Investment ("Owner"). Accordingly, BLDG has forwarded your July 13 Email on to the Owner, but all of the claims, demands, and threats asserted against BLDG are completely baseless and thus summarily rejected.

The substance of the accusations in the July 13 Email are unfounded factually and under the law. You claim that the Property lacks proper security such that the Property is "uninhabitable" pursuant to C.R.S. § 38-12-505(1)(b)(XI). This is wholly inaccurate, and the Property is not uninhabitable under the statutory provisions you have referenced—or under any statutory provision. C.R.S. § 38-12-505(1)(b)(XI) states that "A residential premises is deemed uninhabitable if . . . [i]t substantially lacks . . . ***[l]ocks on all exterior doors*** and locks or security devices on windows designed to be opened that are maintained in good working order." (emphasis added). Contrary to the erroneous claims in your July 13 Email, the Property has locks on all exterior doors, and they have been kept in good order and repaired (including recently) when they have been damaged from time to time. The door to the clubhouse that you reference as violating this section is an interior door because it is within the Property and not accessible without first entering through one of the exterior doors, all of which have locks.

In short, the Property's security features—and all other aspects of the Property—are altogether reasonable and comply with Colorado law. While ownership of the Property has and will continue to take reasonable efforts to protect the health and safety of the Property's tenants, the law does not require the Property to be impenetrable, and to the extent third-party criminal trespassers are able to break through and/or otherwise circumvent the Property's reasonable security features, such criminal activity does not render the Property "uninhabitable" under the law.

Similarly, your assertion that the Property has one or more conditions that violate C.R.S. § 38-12-505(XII) (*i.e.*, violation of a building, housing or health code)—is without any factual support and without any citation to any applicable building, housing or health code. It therefore lacks any basis in fact or under the law.

Finally, the threats that you make in the July 13 Email are both unproductive and unlawful. First and foremost, to the extent you make any claim against any individual who works for BLDG, in any forum, such claims would not only be groundless and frivolous, but also malicious; this is also the case with any claim against individual employees, officers, and members of BLDG. If you take the misguided step of making any claims against BLDG or any individual affiliated with BLDG, you should expect vigorous opposition, including but not limited to seeking recoupment of attorney's fees and other damages incurred as a result of your groundless and frivolous claims. Furthermore, to the extent you make any misrepresentation about BLDG (*e.g.*, assert or imply that BLDG—which is not the owner of the Property—has violated the warranty of habitability or any lease provision) to any third party, including but not limited to industry partners, investors, and/or the media, such misrepresentations will constitute defamation, and BLDG will take all available lawful action against you for such defamation. Finally, to the extent you commit disorderly conduct, disturb the peace, and/or harass Mr. Joblon or any other individual affiliated with BLDG, all available legal recourse will be taken against you for such unlawful action.

We trust that this letter will resolve the issues outlined in the July 13 Email as they pertain to BLDG. BLDG is providing a copy of this letter to Owner under separate cover, and Owner's rights are reserved in full. Please let me know if anything in this letter is unclear in any way.

Sincerely,

Jonathan G. Pray

cc: Broc Gullett

Images A-C: Pictures of Broken Door Leading to Interior of Building