

**HELPING UNREPRESENTED LITIGANTS
WITH LEGAL DOCUMENTS:**

**CONSUMER SATISFACTION WITH
LEGAL DOCUMENT ASSISTANTS
IN CALIFORNIA'S BAY AREA
AND
AN OVERVIEW
OF RELEVANT LAWS IN ARIZONA**

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I. INTRODUCTION

The United States takes great pride in its civil justice system; however, while mechanisms for obtaining justice do exist, access to the legal justice system is faltering. California Chief Justice Ronald M. George warned that "If the motto 'and justice for all' becomes 'and justice for those who can afford it,' we threaten the very underpinnings of our social contract."¹ If such is true, then the social contract for too many has been not only threatened, but also breached. For example, the legal needs of 72% of California's poor are unmet.² The price of legal services provided by most attorneys across the country is simply too high for persons with low to moderate incomes. This unfortunate situation has worsened due to shrinking availability of funds, which has limited the ability of non-profit organizations and courts' self-help centers and family law facilitators to provide free or reduced-price legal services to those who could not otherwise afford them.

One proposal to alleviate the problem of limited access to justice is to allow nonlawyers to provide limited legal services to the public directly, without an expensive attorney acting as a "middleperson."³ Many of the unmet legal needs involve fairly simple tasks that do not require legal expertise. Tasks such as filling out a simple marriage dissolution form need not be performed by a lawyer and should not come with a lawyer's high price tag. Currently, California and Arizona are pioneering the drive to recognize and regulate the independent paralegal industry in an effort to increase access to justice for their citizens and residents. Of course, support and cultivation of an independent paralegal industry is a viable and successful solution

¹ California Commission on Access to Justice. The Path to Equal Justice: A Five-Year Status Report on Access to Justice in California. (Oct. 2002). Available at <<http://calbar.ca.gov/calbar/pdfs/accessjustice/2002-Access-Justice-Report.pdf>> (accessed June 17, 2005).

² Ibid. at 3.

³ This study did not differentiate between genders and where gender-neutral reference is impractical, feminine pronouns will be used as gender-inclusive.

only insofar as the independent paralegals are able to provide the public with high quality services.

This study aims to offer a preliminary assessment of consumer satisfaction with the legal services offered by independent paralegals in California.

II. BACKGROUND

In the summer of 2004, HALT, a legal reform organization based in Washington, DC, hired three students from UC Hastings College of the Law to develop and conduct an exploratory and comparative study of the emerging legal document preparation profession in the United States. The study, conducted primarily between May 2004 and May 2005 was supervised by Miye Goishi, Clinical Attorney at the Hastings Civil Justice Clinic.

Independent paralegals, also known as legal document assistants (LDAs) and legal document preparers (LDPs)⁴ are nonlawyers who, in some states, may lawfully fill out, file, and in other ways prepare legal documents on behalf of *pro se* litigants. Although relatively simple in mandate, the legal document preparation profession in the United States has been subject to intense scrutiny and in some instances, investigation or prosecution by various private and public individuals and entities in government, legal communities, and beyond.⁵ Many governmental and non-governmental agencies, including state bar associations, private attorneys, and local

⁴ Arizona uses the term LDP while California uses the term LDA. These terms are used interchangeably throughout this study. (These professionals are also known as independent paralegals.)

⁵ For example, Robin Smith assisted approximately 10,000 people with forms for their uncontested divorces *without complaint*, but her business was shut down by the Oregon State Bar. A lawsuit against Marilyn Arons, who provided free services to disabled children's parents in educational placement hearings, stemmed from school districts' rather than parents' complaints. See Turner, J.C., Gordon, T.M. & Serdikoff, S.E. Consumers of Legal Services: Unprotected and Under-served. <http://www.halt.org/reform_projects/freedom_of_legal_information/pdf/ACCI_Article.pdf> (accessed June 17, 2005).

government officials, have voiced concerns about the quality of services provided by nonlawyer legal document preparers and in fact, have even questioned the legality of the enterprise.⁶

In response to the controversy over the legal document preparation industry, HALT set out to assess *consumer* satisfaction with the services provided by LDPs in order to inform policy makers and other interested parties of the *reality* of consumer experiences with LDPs. HALT's main objective was to gain some insight into whether or not consumers are benefiting from services provided by the legal document preparation industry. This study focuses on Arizona and California because they are pioneering the regulation of this growing profession.

III. METHODOLOGY

We began this study by researching the various statutes, court rules, pending legislation, litigation, and articles on nonlawyer LDPs across the country. We then spoke with LDPs, attorneys, county clerks' offices, and courts throughout California to determine appropriate interview questions, as well as the best way for us to contact a relatively representative sample of consumers. Our goal was to examine approximately 1,500 dissolution case files from one county in California and one county in Arizona, record the names and contact information of the parties in cases filed by LDPs, and contact those parties directly in order to ask about their experience using an LDP. However, as discussed below, while we were unable to gain access to the files in Arizona, we ultimately reviewed nearly 3,000 files from three different counties in California.

Data Collection and Contacting the Consumer

San Francisco County

In San Francisco County, we worked with the Director of the Unified Family Court to retrieve marital dissolution files, which are part of the public record. Because LDAs in

⁶ Ibid.

California are required to stamp the paperwork they file with their name, address, and other identifying information,⁷ we were able to locate 180 of such files out of the 1,500 files (12%) we reviewed.

After finalizing our data collection process, we first sent each of the parties a letter describing our project (See Appendix A-1) and followed up with a phone call within two weeks to ask them our questions (See Appendix B). Ultimately we completed surveys of 24 consumers, discussed in detail in part V below.

Alameda and Santa Clara Counties

We also surveyed twenty-three consumers outside of San Francisco County. In order to locate the consumers, it was necessary to review almost 800 files. Of the 618 finalized dissolution files in Alameda County's Family Court, 82 (13.27%) were stamped as prepared by an LDA.⁸ Of the 179 finalized dissolution files in Santa Clara County's Family Court, 30 (17%) were stamped as prepared by an LDA.

The approach to contacting consumers was slightly modified for these two counties. We first attempted to call consumers whose phone numbers were listed on the filed legal documents. This approach yielded seventeen consumers. We mailed an explanatory letter, a questionnaire, and a self-addressed stamped envelope to those who did not have a phone number listed on the documents, or those who could not otherwise be reached by phone (See Appendix A-2). This

⁷ California Business and Professions Code §6408 (2005). However, unlike unlawful detainer documents, which have a pre-printed section for unlawful detainer assistants to complete, the dissolution documents we reviewed make no mention of legal document assistants. (See Appendix K). Revising dissolution documents to include such a section for legal document assistants may help increase identification of documents prepared by legal document assistants.

⁸ At the time of review (March to April 2005), there were numerous dissolutions pending over a year after petitions were filed; the documents for these cases were prepared by attorneys, plaintiffs in pro per as well as LDAs. Note that the vast majority of research was done in Alameda County because of the relative convenience for both the researcher and court staff (the researcher was loaned monthly filing reports and directed to use a public computer in Alameda County; in Santa Clara County, the researcher was given limited access to dissolution/nullity records that

approach resulted in five completed surveys returned by mail. Also, one consumer received the packet and called the Hastings Civil Justice Clinic to schedule a time for a phone interview. All surveyed consumers except one had their dissolutions completed in Alameda County. The remaining consumer whose divorce was completed in Santa Clara County used the services of an LDA who was also registered in Alameda County. The results for these surveys are discussed, along with those of San Francisco consumers, in part V below.

IV. CALIFORNIA: CURRENT STATE OF THE LAW

A. Background and Current Law

California State Senate Bill 1418 went into effect on January 1, 1999, creating a new class of professionals called “legal document assistants.”⁹ While “[e]xisting law generally regulate[d] unlawful detainer assistants... requir[ing them], by the filing of an application, to register with the county clerk ... [SB 1418] would revise and recast these provisions to, in addition, apply to legal document assistants ... so as to prohibit any self-help service for compensation” by an unregistered LDA.¹⁰ Nevertheless, this was “major legislation ... especially [so] because the California legislature ha[d] repeatedly rejected regulation of paralegals for three decades.”¹¹

were housed in moveable floor-to-ceiling shelving, access to which was halted when staff needed to access certain files).

⁹ Cal. Sen. 1418, 1997-1998 (Jan. 20, 1998). (Bill introduced by Senator Rosenthal, amended and chaptered on Sept. 30, 1998), See Appendix C: Senate Bill No. 1418, Chapter 1079 (Sept. 30, 1998). See also Cal. Sen. Rules Comm. SB 1418 (Aug. 25, 1998) (“The intent of this bill is to codify People v. Landlords Professional Services[, 215 Cal. App. 3d 1499 (1989)] and to provide for the accountability of persons who sell self-help legal services.”). See also Appendix D: People v. Landlords Professional Services. See also page 9 for discussion of the California Department of Consumer Affairs' opposition of the bill.

¹⁰ *Ibid.*

¹¹ Cannon, T.A., *California Regulates Paralegals*, ABA Standing Committee on Paralegals <<http://www.abanet.org/legalservices/paralegals/update/cacannon.html>> (accessed June 19, 2005). (“[S]imilar initiatives to endorse limited law practice by nonlawyers as a means to increase access to legal services have been dashed, even when promoted by entities of the State Bar of California.”).

SB 1418 made explicit that Chapter 5.5 titled "Legal Document Assistants and Unlawful Detainer Assistants" was inapplicable to paralegals, now officially distinct from LDAs.¹² Previously, some of these individuals who fit the LDA description called themselves paralegals while others called themselves *independent* paralegals, legal assistants, and/or legal technicians.¹³ Traditionally, the term paralegal was used to refer to nonlawyers who worked under the supervision of lawyers. The rise of *independent* paralegals and the like in California began in the 1970s when two attorneys in the city of Berkeley created the Wave Project, a legal self-help movement that helped to establish 20 document preparation offices, run by independent paralegals, throughout California.¹⁴

Since the 1970s, the independent paralegal industry continued to grow. Meanwhile, consumers became increasingly confused as to the difference between paralegals and independent paralegals or legal document preparers. Through SB 1418, the California Legislature sought to clarify the distinction between the two professions, in other words, between those individuals who worked for and under the supervision of attorneys and those who worked independently, providing their services to the public directly. With the passage of SB 1418, the California Legislature officially acknowledged the existence and legitimacy of the independent paralegal profession.

Codified at California Business and Professions Code §§ 6400-6415, the law provides that a legal document assistant is one "who provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public

¹² California Business and Professions Code §6401(b) (2005).

¹³ Cregler, J.P., *The Role of Independent Paralegals in Improving the Quality and Delivery of Legal Services*, The Bellow-Sacks Project, <<http://www.law.harvard.edu/academics/clinical/bellow-sacks/papers/Cregler%20-%20indep%20para.pdf>> (accessed June 19, 2005).

¹⁴ Ibid.

who is representing himself or herself in a legal matter, or who holds himself or herself out as someone who offers that service or has that authority.”¹⁵ (See Appendix E).

The legislation also attempted to define “self-help” in an effort to establish the boundaries of acceptable practice by an LDA. The law explicitly states that it does not promote nor authorize the practice of law by those not qualified to do so.¹⁶ An LDA is permitted to provide only “self-help” services, which means all of the following:

- (1) Completing legal documents in a ministerial manner, selected by a person who is representing himself or herself in a legal matter, by typing or otherwise completing the documents at the person's specific direction.
- (2) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal matter, to assist the person in representing himself or herself. This service in and of itself, shall not require registration as a legal document assistant.
- (3) Making published legal documents available to a person who is representing himself or herself in a legal matter.
- (4) Filing and serving legal forms and documents at the specific direction of a person who is representing himself or herself in a legal matter.¹⁷

Specifically, an LDA may not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies.¹⁸ LDAs overstepping these boundaries may be subject to fines ranging from \$1000 to \$2000 per client and may also face misdemeanor charges.

¹⁵ California Business and Professions Code §6400(c) (2005).

¹⁶ California Business and Professions Code §6401.5 (2005).

¹⁷ California Business and Professions Code §6400(d) (2005).

¹⁸ California Business and Professions Code §6400(g) (2005).

LDA regulations are under California Code of Regulations, Title 16 Professional and Vocational Regulations, and specify, among other things, the wording and font for contracts consumers enter with LDAs.¹⁹ (See Appendix F).

B. Requirements for Registration

In addition to defining the scope of an LDA's professional engagement, SB 1418 enumerated several requirements. LDAs must register with the county clerk in every county in which they do business.²⁰ Registration requires submission of an application, posting of a \$25,000 bond²¹ and payment a \$175 filing fee.²² LDAs must also have one of the following:

(a) A high school diploma or general equivalency diploma, and either a minimum of two years of law-related experience under the supervision of a licensed attorney, or a minimum of two years experience, prior to January 1, 1999, providing self-help service.

(b) A baccalaureate degree in any field and either a minimum of one year of law-related experience under the supervision of a licensed attorney, or a minimum of one year of experience, prior to January 1, 1999, providing self-help service.

(c) A certificate of completion from a paralegal program that is institutionally accredited but not approved by the American Bar Association, that requires successful completion of a minimum of 24 semester units, or the equivalent, in legal specialization courses.

(d) A certificate of completion from a paralegal program approved by the American Bar Association.²³

C. Administration and Enforcement

Passage of this legislation has received some mixed reviews from the independent paralegal community. For some, it is recognition and validation of the services that they provide

¹⁹ California Code of Regulations §§ 3900-3950 (2005).

²⁰ California Business and Professions Code § 6402 (2005).

²¹ California Business and Professions Code § 6405 (2005). If a partnership or corporation employs 5-9 assistants then the bond must be \$50,000; it must be \$100,000 if it employs over 10 assistants.

²² California Business and Professions Code § 6404 (2005).

²³ California Business and Professions Code § 6402.1 (2005).

the public, while for others it is just extra bureaucratic red tape making it more difficult for them to provide greatly needed services to the community.²⁴ According to Tamara Parker of the California Association of Legal Document Assistants (CALDA), the particularly frustrating part about the legislation is that there is no enforcement mechanism to ensure compliance with the registration requirement.²⁵ Although each county clerk is legally obligated to keep a registry of all LDAs in the county, there is no procedure to ensure that LDAs are registering and that they renew their certificates every two years as mandated by the law.²⁶

D. Current Statistics and Commentary by California Officials

As of the summer of 2004, there were approximately 800 LDAs registered throughout California's 58 counties.²⁷ According to Marcia Burke, secretary of CALDA, there were approximately 560 LDAs registered in 2003, down from 789 in 2002.²⁸ For every registered LDA, she believes there are "two or three" who aren't registered. Burke theorized that some LDAs choose not to register and/or renew registration because they are aware that there is no enforcement of the registration requirement. There is little incentive to pay a \$175 filing fee if it "won't make a difference either way."²⁹ Regulation of the industry, in CALDA's opinion, is good because it brings a certain degree of legitimacy to the profession; however, regulation is much less meaningful when there is no enforcement to ensure compliance. The Department of Consumer Affairs, warned in its long-standing opposition to SB 1418 that, "[s]imply registering LDAs with county clerks provides no enforcement mechanism to remedy the misconduct of

²⁴ Telephone interview with Tamara Parker, Vice President, Calif. Assoc. of Legal Document Assistants. (July 12, 2004).

²⁵ Ibid.

²⁶ California Business and Professions Code § 6406 (2005).

²⁷ The number of LDAs registered may be somewhat lower than 800 depending on how many LDAs are registered in multiple counties. Each county clerk provided only the number of LDAs registered and not their actual identities. Telephone interviews with California county clerks. (June 2004).

²⁸ Telephone interview with Marcia Burke, Cal. Assn. of Legal Document Assistants. (July 14, 2004).

²⁹ Ibid.

LDAs, thereby creating the appearance, but not the reality, of government oversight and control."³⁰

Bonnie Hough, a supervising attorney at the Center for Families, Children and the Courts of the Judicial Council of California, Administrative Office of the Courts recently conducted a review of court filings by pro se litigants in Fresno, Butte, and Tehama counties. Her assessment of the documents prepared by LDAs was for the most part favorable. Hough thought that "LDAs did a good job in general."³¹ In fact, she mentioned that court clerks in Sonoma County, actually refer some *pro se* litigants to LDAs. She also admitted, though, that court facilitators seemed to be generally critical of independent paralegals. Common criticisms of LDA work are lack of detail and substance in the documents prepared.

Hough believes that LDAs belonging to organizations such as CALDA tend to be better at what they do and produce work of higher quality. There is likely a correlation between those who seek to become members of self-regulating groups and commitment to professionalism. She advocates a system whereby a state entity grants licenses to LDAs and is charged with enforcing regulations. She further believes that requiring LDAs to participate in continuing education courses each year will result in a higher level of competence and legitimacy. In Hough's opinion, LDAs provide a service that is significant in a society where the legal needs of a large proportion of the citizenry go unmet. Their services are much less expensive than those of attorneys and do not seem to be inferior when limited to uncomplicated cases. LDAs exist because there is a market for them and having an LDA licensing system in place would address quality concerns while providing the public with an alternative to using an attorney, whose expertise and expense may be unnecessary in certain cases.

³⁰ Cal. Assembly Comm. on Judiciary, *SB 1418*. 5. (June 30, 1998).

³¹ Interview with Bonnie Hough, California Judicial Council. (June 28, 2004).

Claire Williams, Director of the San Francisco Unified Family Court, has a much different take on the situation. According to Williams, documents prepared and filed by LDAs are on the whole, “inferior because they lack detail and substance.”³² LDAs tend to “cut corners” and while their mistakes may not be “devastating” for the client, many times they result in a delay in the resolution of the client’s case.³³ The complaint she hears most from clients is that the LDA told them something had already been filed when it in fact had not. What really upset her, however, is that some of these clients are quite surprised to hear that the LDA they were working with is not in fact an attorney. Whether this confusion is the result of actual misrepresentation on the part of the LDA or just confusion on the part of the client, Williams believes that the situation is “insidious.”³⁴ However, these complaints about LDAs were not reflected in the surveys we conducted, discussed in the next section. In fact, only one out of twenty-four consumers in San Francisco County was under this misimpression and the vast majority were satisfied with their LDA’s service.

Williams also expressed frustration at the lack of true regulation of the industry. At the San Francisco Unified Family Court, she explains, there is an informal system in place to deal with LDAs who are not following the rules. For example, the clerk’s office will sometimes refuse to accept documents from persons when it is believed that an LDA helped type the document but failed to stamp their information on the document, a requirement under the law.³⁵ The clerk, after seeing so many filings by the same LDA begins to recognize the language used

³² Interview with Claire Williams, California Judicial Council. (June 30, 2004).

³³ Ibid.

³⁴ Ibid.

³⁵ California Business and Professions Code § 6408 provides: the registrant's name, business address, telephone number, registration number, expiration date of the registration, and county of registration shall appear in any solicitation or advertisement, and on any papers or documents prepared or used by the registrant, including, but not limited to, contracts, letterhead, business cards, correspondence, documents, forms, claims, petitions, checks, receipts, money orders, and pleadings.

in the documents and even remembers which LDA uses what font. Williams states that on a few occasions, she has even taken it upon herself to contact clients to advise them of the procedure for filing a complaint against the LDA.

On the other hand, Williams did acknowledge that when an LDA follows proper procedures and is thorough in her work, she could be a valuable resource for lower-income people. She maintains, though, that based on her experience as a former staff attorney at the Unified Family Court, there is only one LDA in San Francisco County, where there are 21 registered, who she would feel comfortable recommending to a pro se litigant. This LDA won Williams' respect by consistently producing quality work and always being extra careful to refer her clients to an attorney when there was any question that legal advice was being sought.

Melissa Tapley, a current staff attorney at the San Francisco Family Court, echoes the sentiments expressed by Williams.³⁶ Her criticism about some of the LDA work that she has seen is that LDAs tend to oversimplify things. Also, they sometimes use the wrong forms or check the wrong boxes on the forms and their work seemed careless and rushed. Further, many dissolution forms filed by LDAs lack detail. For example, a couple that had been married 10 years or so listed no items of community property on the property form. Tapley finds this hard to believe and wonders whether the client does not understand what is being asked since an LDA, of course, cannot legally explain the legal concept of “community property” to the client. They can only refer their clients to published material, which has been prepared by an attorney. Tapley's main problem with LDAs is that, because they are so limited in what they can actually do, they cannot provide clients with information that may be very important, especially when it comes to protecting their rights. Tapley worries that clients who do not have much of an understanding of the law may not get the guidance that they need. However, our research

showed that consumers generally sought LDA assistance when their legal needs were relatively simple and LDAs referred consumers to attorneys if for complicated issues that were out of the LDA's scope.

Although Williams and Tapley both expressed some concerns regarding the quality of services provided to the public by LDAs, the number of actual complaints lodged against LDAs in San Francisco is extremely low. According to Laurel Pollack of the San Francisco District Attorney's consumer fraud division, the office received only about 10 complaints over the past 10 years.³⁷ She also mentioned that she thinks they have only prosecuted one LDA in the past 10 years and that case involved the LDA misrepresenting himself as an attorney. The usual complaint is about an LDA who does not file papers when she says she is going to or does not call clients back. As noted above and discussed in greater detail in the next section, surveys with LDA consumers revealed that they did not think their case would have taken less time if it had been handled by an attorney, and they felt that LDAs were more approachable than attorneys.

In Santa Clara County, there appear to be more problems with some independent paralegals. There has been "a series of cases prepared and filed by the Consumer Protection Unit of the District Attorneys Office ... intended to address illegal activities by non-attorneys who offer legal assistance."³⁸ However, Martha Donohoe, a prosecuting Deputy District Attorney in the Consumer Protection Unit, commented that, "[m]ost of the information we get about LDAs is the bad news, because that is what causes consumers to complain to our office."³⁹ In order "to

³⁶ Interview with Melissa Tapley, San Francisco Unified Family Court. (July 9, 2004).

³⁷ Telephone interview with Laurel Pollack, San Francisco District Attorney's Office. (July 6, 2004).

³⁸ Alvin G. Weger, Assistant District Attorney, Santa Clara District Attorney's Office. Paralegal Sentenced to Six Years in State Prison. (April 19, 2002). <<http://www.santaclara-da.org/press/0,4786,ccid%3D48981,00.html>> (accessed June 20, 2005) (Kevin Patrick Lowe, of Lowe Legal Services, violated a probation condition to "not engage in any legal service work following his guilty plea to several criminal acts... include[ing] perjury, filing false documents, ... and misdemeanor counts of unlawful practice of law ... and violations of the Unlawful Detainer Assistant Act.")

³⁹ Martha Donohoe. Personal e-mail, on file with the authors. March 21, 2005.

find out about the positive side" of LDAs, Donohoe suggested looking toward the family court.⁴⁰ The next part details surveys of family court litigants who used LDAs in their divorces.

V. INTERVIEWS OF PRO SE LITIGANTS WHO USED AN LDA (CALIFORNIA)

San Francisco County

As detailed above in Section III, the authors interviewed 24 people who had used an LDA for assistance with dissolutions in San Francisco (See Appendix G). All surveys were conducted by phone, except one, of a consumer who requested that we send the survey to a sibling who spoke and wrote English more fluently.

Alameda and Santa Clara Counties

As noted earlier, of the 618 Alameda County files reviewed, there were 82 LDA-prepared dissolutions granted,⁴¹ documents for which were prepared by 14 of 26 LDAs registered in the county.⁴² Almost 65% of these documents were prepared by just three LDAs, one of whom prepared 39% of all the LDA-prepared documents reviewed.

Of the 179 Santa Clara files reviewed, almost 17% were stamped as prepared by one of eight legal document preparers, although there are approximately 22 currently registered LDAs in Santa Clara County.⁴³ Nearly one-third were prepared by one legal document preparation provider.⁴⁴ One-fifth of consumers were prepared by one LDA currently registered in the

⁴⁰ Ibid.

⁴¹ At the time of review (March to April 2005), there were numerous dissolutions pending over a year after petitions were filed; the documents for these cases were prepared by attorneys, plaintiffs in pro per as well as LDAs.

⁴² As of April 2005, there were 26 currently registered LDAs. Legal Document Assistant – Numeric Listing (Alameda County), on file with the authors.

⁴³ Index of Santa Clara County Registered Legal Document Assistants (as of 15 March 2005), on file with the authors. Note that Santa Clara County Deputy District Attorney (Consumer Protection Unit) Martha Donohoe acknowledged that, "[w]e have a good number of registered LDAs in our County, although there is still unregistered activity occurring." Personal e-mail, on file with the authors. March 21, 2005.

⁴⁴ No verification of current registration was possible as the fictitious business name was not listed in the Index and there was no apparent link on the legal documents to an LDA/natural person's name.

county. Two LDAs each prepared approximately 13% of the documents.⁴⁵ Two others prepared 10% each, one of whom is also registered in Alameda County and prepared the documents for the single Santa Clara County LDA consumer who was surveyed. Two more LDAs each prepared 3% and one of these prepared many of the documents for limited English speakers in the San Francisco study.⁴⁶

Finding and Deciding to Use the LDA

In San Francisco, of the 23 persons interviewed who knew they were dealing with a nonlawyer, 21 cited the lower cost of an LDA as being a primary reason for choosing not to hire an attorney. One person mentioned that an additional concern with using an attorney was the “risk of polarizing the situation.” Another person mentioned that she believed LDAs were less “contentious.” Interestingly, 19 out the 24 persons interviewed found out about LDAs through word of mouth whether through a relative, friend, or neighbor; two out of those 19 were even referred to the LDA by their soon to be ex-spouses. Others learned of LDAs by seeing signs in office windows or an ad in a paper.

In Alameda and Santa Clara Counties, most consumers found out about their LDA through the phone book (almost 35%) or from family or friends (30%). If soon-to-be ex-spouses were included in the latter category, then word of mouth would become the biggest LDA referral at 39%. Some consumers also found out about LDAs from a Nolo Press resource guide (almost 9%), from an attorney (4%), from a newspaper (4%), from a sign (4%), or from internet or other individual research (almost 13%).⁴⁷

⁴⁵ Both LDAs were currently registered, however one used a stamp bearing an older and expired registration number.

⁴⁶ This LDA's Santa Clara registration had expired and his stamp bore his San Francisco registration number.

⁴⁷ The percentages exceed 100% because of combined sources – two consumers' ex-es found the LDAs -- one from the phone book and the other from a Nolo Press resource guide.

In Alameda and Santa Clara Counties, many consumers had multiple reasons for deciding to use an LDA. The vast majority (74%) cited cost as a reason, and over half of these consumers gave no other reason for using an LDA.⁴⁸ The next biggest reasons were not needing a lawyer (i.e., "it was a simple case") (26%), followed by specifically not *wanting* a lawyer (13%). Others used an LDA because they tried, but could not complete the paperwork on their own (13%).

LDA Services and Costs

Overall, the type of help offered by the LDAs was roughly the same. The LDAs provided forms, helped fill them out or filled them out entirely with information provided by the client (See Appendix H-1), and either filed the documents with the court or instructed the client on how to do so. In San Francisco, the fees paid by clients ranged from \$100 to \$600, with the median being \$400, not including the court filing fees. Twenty-one out of 24 clients believed that the fee charged was "just right," "very reasonable," "fair" or "okay." One person could not answer the question because she did not actually pay for the services. One person believed the fee, somewhere between \$300-400, was "a bit expensive but still cheaper than [what] a lawyer [would charge]." One who was dissatisfied with the LDA believed that the fee was high given the little amount of work she actually did. This consumer was also the only person interviewed who was not sure that using an attorney would cost more; everyone else thought that an attorney would be more expensive.

In Alameda and Santa Clara Counties, LDAs offered the same type of basic services for the marital dissolutions⁴⁹ mentioned in the San Francisco summary. Some also provided more complex services, such as dealing with child custody and child and spousal support.⁵⁰ The

⁴⁸ Nine cited cost as the sole reason for choosing to use an LDA; seven cited cost in addition to another reason.

⁴⁹ One of 23 consumers had a Joint Petition for Summary Dissolution.

⁵⁰ See Appendix H-2 for sample forms.

average cost was \$475; the lowest was between \$100-350 and the highest was \$800.⁵¹ Most (83%) indicated that the cost was "just right," "fair," or "reasonable." Two consumers (9%) felt the cost was "rather low." Two other consumers thought it was "rather high," although one of them explained that "it felt high to me because I don't have a lot of money, but it was the cheapest around." The vast majority of consumers (96%) were at least satisfied with the quality of their LDA's service. Many (57%) went so far as to say they were very satisfied, providing descriptions such as "outstanding," "extremely high quality," and "excellent." Only one consumer had a somewhat negative comment, noting that it was "a little chaotic," however, she nevertheless felt that the fee was fair given the quality of services, as did 17 others.⁵³ One consumer commented that "legal mumbo jumbo is esoteric and difficult to understand – it's worth a few hundred bucks."

Satisfaction with Resolution of Legal Issue

In San Francisco, there was little expressed dissatisfaction with the LDA service received. One consumer's dissatisfaction was mainly because the LDA failed to file his documents in a timely manner and seemed "incompetent" as evidenced by typos in the paperwork. The consumer also described the LDA as not "that knowledgeable," but was not able to elaborate on what the LDA did not know or was not able to explain. One reason why she

⁵¹ This average was calculated using averages of ranges provided by some consumers, and excludes responses by one consumer whose ex-spouse paid, and another who guessed that the cost was under \$300. Also, the current court fee of \$314.50 was subtracted from response of "\$1000, including court fees" for a figure of \$685, included in the average.

⁵³ Some consumers seemed to have a difficult time definitively answering this question; two took the opportunity to note that their LDA's fees were lower than others, indicating that they felt the fee was fair given the quality of services (however, these responses were not counted as "yes" answers); one, who was not sure of the cost since her/his ex- paid, stated that s/he would feel the fee was fair regardless of quality *if* it was \$200 since it the work "is complicated and takes lots of time to do."

may not have appeared to be “that knowledgeable” is the fact that the law limits her ability to personally dispense legal advice or information. One person ultimately had to get a lawyer when the situation got too complicated for the LDA to handle, but still expressed satisfaction with the LDA's job up to that point. The only other negative response received regarding the use of an LDA was from a person who was very surprised and upset to learn that the person she used was not in fact an attorney. This person saw a sign advertising divorce help in a window and assumed that the LDA was an attorney. Although she felt upset that the LDA did not mention that she was not a lawyer, she responded that the quality of services provided was “not too bad” and that she was satisfied with the way in which her legal situation was resolved.

In Alameda and Santa Clara Counties, all except one (96%) stated that they were satisfied with the resolution of their divorce,⁵⁴ with the one exception having mixed feelings – wavering between "not really" being satisfied and being "pretty much satisfied," and explaining that she was "not happy with custody" arrangements. Many felt that their satisfaction with the resolution of their legal situation was due in large part to their use of an LDA.⁵⁵ For example, nine consumers credited their LDAs with "a lot" of their satisfaction – with other valuations including "quite a bit" to "60%" to "100%" of such satisfaction.⁵⁶ All but one who provided responses said "yes," they would use an LDA again, with some qualifying that they would do so depending on the situation. The only one who did not reply with a "yes," said she "probably" would. Virtually all consumers would refer others to an LDA; however, more people would do so only in the same or similar situations, including when they "didn't need someone to protect their interests –

⁵⁴ Again, note that two divorces were pending.

⁵⁵ Note that several consumers had difficulty in understanding this question and/or in apportioning the amount of satisfaction that was due to the LDA – for example, responses included "don't know how to answer," "don't understand the question, but a real headache to do it by myself," and "it's good anytime there are services to help people who wouldn't otherwise be able to afford it."

⁵⁶ One consumer said 80%, another said 96%, five said "all," "100%" or the "whole thing."

just to explain paperwork." One consumer said that "paperwork can be more complicated than you think; if it's not done right it's maddening... it's emotionally frustrating dealing with bureaucracy and it's comforting to have someone who knows what they're doing." Two have already referred others. The one consumer who would not potentially refer others explained, "I am not an expert" and "it doesn't concern me," rather than expressing dissatisfaction with the LDA.

LDA Registration, Bonding and Complaint Procedure

In San Francisco, 16 consumers felt more secure using an LDA knowing of the registration and bonding requirement. No consumers were aware of the procedure to complain against an LDA.

In Alameda and Santa Clara Counties, the LDA registration and bonding requirement made 78% of the consumers feel more secure in using an LDA. The requirement was less significant for 9% of consumers, whose responses included "in some ways," and "I guess"; another 9% of answered "not really." No consumers filed a complaint against their LDA, though one who was actually satisfied noted she "would not be afraid to." However, only two consumers affirmed that they were even aware of the procedure for doing so, leaving 74% unaware of how to file a complaint against an LDA. Four indicated that their LDAs might have informed them of the procedure and/or that relevant information might be in a packet of paperwork received from the LDA.

Legal Document Assistance as a Public Service

In San Francisco, 23 out of the 24 clients believed that LDAs provide an important service for the public. There was a consensus that people should be given the additional option, especially since it is significantly cheaper than going to an attorney. Twenty-two of the 24 were

willing to refer friends to an LDA; in fact, two people had already referred friends to the LDA they used.

In Alameda and Santa Clara Counties, in response to the question of whether LDAs provide an important service to the public, 91% answered with an unqualified "yes." Some added emphases such as "very important" or "absolutely." The two consumers who qualified their answer specified that the public service is important "for those doing their own divorces for financial reasons" and is "important within its field."

Consumers' Suggestions for Making LDAs a More Attractive Option for Others

In San Francisco, almost everyone who believed that LDAs provide an important service for the public suggested that the way to make LDAs a more attractive option for consumers was to simply spread the word that they exist. Two people also mentioned that having a certification system in place might make the public feel more secure about using an LDA.

In Alameda and Santa Clara Counties, almost three-quarters offered suggestions for making LDAs a more attractive option for consumers. The single most common suggestion, offered by 48% of consumers, was increased advertising, including about what services LDAs can provide. One warned that "seedy classifieds" should be avoided. Another noted lost opportunities from the LDA's failure to ask if there were any other needs she could help meet. Three suggested ways in which client services or interactions might be enhanced – ranging from "mints on their desk" to "be impartial, do not be abrasive or weird" to "make clients feel they can call you." One suggested a "certified list," where consumers "could see if they're actually bonded." A couple of consumers felt that a lower price would make LDAs more attractive. One suggested holding regular public seminars and/or being a guest on a weekly legal rights radio show. Another suggestion, that they locate themselves in an attorney's office, may prove to be a

win-win situation for attorneys, LDAs, and legal consumers by providing consumers with the opportunity to receive services from the most appropriate provider, according to the complexity of legal needs.

Legal Advice and Perceived and Actual Comparisons of LDAs and Lawyers

In San Francisco, only four people felt that they wanted or needed advice during the process, with two getting that advice from the LDA directly and two getting it from lawyers. This is likely a result of the fact that most of the subjects interviewed were seeking simple, no-contest divorces. Ten of the 24 persons interviewed had used an attorney in the past. Three out of the 10 mentioned that the LDA was more approachable and the lawyer was more difficult to understand. One person even went so far as to say that in her experience, the LDA “worked harder [than the attorney] for less money.” In general, there seemed to be a fear, even by those who had never used the services of an attorney, that the cost would be quite high. Overall, people seemed to agree that in simple cases, it was both cheaper and easier for a consumer to use the services of an LDA than an attorney.

In Alameda and Santa Clara Counties, six consumers out of 23 indicated that they wanted or needed legal advice during the legal document preparation process. One said she received some legal advice “from the same person” who was helping her, presumably her LDA. Two consumers utilized free legal assistance; one spoke with a pro bono attorney during a legal services event at a local library and the other sought counsel from a family law facilitator's office. One paid for the services of a private attorney. Eighty-one percent of those who could remember (and who provided a comprehensible response) stated that their LDA did not advise them to seek the counsel of an attorney. Ten percent said that their LDA advised them to do so *if*

they had questions. Another 10% reported that their LDA advised them to do so regarding property division or for other options.

In response to the question that specifically asked consumers to compare the relative costs if they used an attorney instead, all Alameda and Santa Clara County consumers' responses, except one that was incomprehensible,⁵⁷ indicated that an attorney would or would probably have charged more. One noted, "lawyers would charge ten times as much." As far as comparative time, 70% thought their case would take the same or more time with an attorney. One consumer thought her case would "definitely" have taken less time if an attorney were used.

Twelve Alameda and Santa Clara County consumers had used an attorney before.⁵⁸ Four had positive experiences with their attorneys, five had negative experiences, one had mixed experiences with several attorneys, and the remaining one declined to elaborate, answering that she used an attorney's services, but "that's all I want to say about that." One consumer described her experience with using an attorney as "bad," explaining that he "missed court dates. The judge made him give my money back." Her response when asked to compare the experience with using an LDA was simply "the LDA was better." Three mentioned that the attorney was more expensive, and one, whose access to and experience with an attorney was through a limited number of free telephonic legal services as a fringe benefit through her employment, made the comparison that the "LDA was paid, more attentive, and more available." One consumer who almost used an attorney had a preliminary interview regarding the divorce, and shared that the attorney did not return calls, did not explain things as clearly and was not as sensitive as the LDA. None of the consumers, even those who had very positive experiences with attorneys provided a negative comparison of LDAs.

⁵⁷ The response on the mailed survey was "no."

In San Francisco, 22 of 24 had no regrets about not using an attorney. One had mixed feelings, and the other regretted not using an attorney. In Alameda and Santa Clara Counties, over 95% of consumers, whether they had ever used an attorney or not, said they had no regrets about not using an attorney for their divorce – three added the following comments: "absolutely not," "none whatsoever," and "not at all." The only consumer who expressed regret about not using an attorney shared, "but so little was at stake it's not a huge deal."

VI. ARIZONA: CURRENT STATE OF THE LAW

A. Background and Current Law

In contrast to California's legislated regulation, the state supreme court regulates Legal Document Preparers (LDPs) in Arizona. Under Arizona Supreme Court Rule 31, the practice of law includes in relevant part, "providing legal advice or services to or for another by ... preparing any document in any medium intended to affect or secure legal rights for a specific person or entity ... [and] preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity."⁵⁹ (See Appendix I). The rule also describes the unauthorized practice of law as including "engaging in the practice of law by persons or entities not authorized to practice pursuant to" sections of the rule dealing with specific tribunals and hearings therein. The rule was amended by the addition of a section stating that "nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration. Part 7, Chapter

⁵⁸ See "Data Sheets Q22 and Q22 Calculations" for a list of cases types and relevant statistics, on file with the authors.

⁵⁹ Arizona Supreme Court Rules, Rule 31 (2005).

2, Section 7-208,⁶⁰ which details, among other things, LDP certification, role and responsibilities, and code of conduct.⁶¹ (See Appendix J).

Certified LDPs are authorized to prepare, provide, and file legal documents, without the supervision of an attorney, for a person or entity not represented by an attorney.⁶² They are also authorized to provide “general legal information but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies.”⁶³ They may also provide to unrepresented persons “general factual information pertaining to legal rights, procedures, or options available to a person in a legal matter.”⁶⁴

Certified LDPs are required to include the ir "name, the title 'Arizona Certified Legal Document Preparer' or the abbreviation 'AZCLDP,' and the legal document preparer's certificate number on all documents prepared by the [LDP] that are filed in an Arizona court or tribunal."⁶⁵ LDPs are prohibited from "us[ing] the designations 'lawyer,' 'attorney at law,' 'counselor at law,' 'law office,' 'JD,' 'Esq.,' or other equivalent words" that may induce another to believe the LDP is authorized to practice law.⁶⁶ An LDP "must inform the consumers in writing that a legal document preparer is not a lawyer, is not employed by a lawyer, cannot give legal advice, and that communications with a legal document preparer are not privileged."⁶⁷

⁶⁰ Arizona Supreme Court Rules, Rule 31(c)(23) (2005).

⁶¹ Ariz. Code of Judicial Administration [hereinafter ACJA]. Part 7, Ch.2, Sec.7-208 (2005).

⁶² ACJA. Section 7-208(F)(1)(a), (e).

⁶³ ACJA. Section 7-208(F)(1)(b).

⁶⁴ ACJA. Section 7-208(F)(1)(c).

⁶⁵ ACJA. Section 7-208, Appendix A. Code of Conduct Standard 5(c).

⁶⁶ ACJA. Section 7-208. Appendix A Code of Conduct. Standard 5(c) (2005).

⁶⁷ ACJA. Section 7-208. Appendix A Code of Conduct. Standard 5(c) (2005).

B. Requirements for Certification and Renewal

In order to be certified as an LDP, a person must be eighteen years of age or older,⁶⁸ a citizen or legal resident of the United States,⁶⁹ of good moral character,⁷⁰ and must comply with relevant state laws, rules, and orders.⁷¹ The minimum educational and experiential qualifications are similar to, but more inclusive than, those in California. Both states require "a high school diploma or general equivalency diploma" and at least "two years of law-related experience" in legal document preparation services⁷² or under a licensed attorney's supervision. Arizona, unlike California, also allows for such experience under a certified LDP's supervision⁷³ or "[a]s a court employee."⁷⁴ Both states also allow registration or certification if an individual has a four-year undergraduate degree and as little as one year of the aforementioned experience⁷⁵ or if she has "[a] certificate of completion from a paralegal or legal assistant program," whether it is institutionally accredited⁷⁶ or American Bar Association-approved.⁷⁷ Arizona, unlike California, expressly provides that law school graduates meet the educational requirement for certification.⁷⁸

Beginning July 1, 2006, all individual certification applicants must also pass a written examination for what is termed "standard" certification.⁷⁹ Those already certified must take the

⁶⁸ ACJA. (E)(3)(a)(2) (2005).

⁶⁹ ACJA. (E)(3)(a)(1) (2005).

⁷⁰ ACJA. (E)(3)(a)(3) (2005).

⁷¹ ACJA. (E)(3)(a)(2) (2005).

⁷² ACJA. (E)(3)(a)(5) (2005). In Arizona, the two years of qualifying legal document preparation services must have been provided prior to 2003, whereas in California, such self-help services must have been before 1999. See page 9 for discussion of other California requirements.

⁷³ ACJA. (E)(3)(a)(5)(a)(iii) (2005).

⁷⁴ ACJA. (E)(3)(a)(5)(a)(iv) (2005).

⁷⁵ ACJA. (E)(3)(a)(5)(b) (2005). See also page 8.

⁷⁶ ACJA. (E)(3)(a)(5)(c) (2005). The code does not define "institutionally accredited," but notes that such accreditation is an alternative to approval by the American Bar Association.

⁷⁷ ACJA. (E)(3)(a)(5)(c)-(e)(2005)

⁷⁸ ACJA. (E)(3)(a)(5)(f), (g) (2005).

⁷⁹ ACJA. (E)(4) (2005).

examination by September 1, 2005.⁸⁰ The examination covers "legal terminology, client communication, ... document preparation, ethical issues, and professional and administrative responsibilities pertaining to legal document preparation, as identified through a job analysis conducted at the direction of the [Arizona Board of Legal Document Preparers]."⁸¹

Initial certification and initial renewal are each \$300.00.⁸² Standard certification is \$250.00 and standard renewal is \$500.00.⁸³ Noncertified LDPs must pay a \$50 examination fee.⁸⁴ Fees are paid into a Legal Document Preparer Fund, which was established and is administered by the Arizona Supreme Court.⁸⁵

Initial certifications may be renewed before the expiration date of June 30th of each year.⁸⁶ After the Board has received the renewal application and fee, it issues for one year a new initial certificate and for two years a new standard certificate "unless the Board finds that the applicant does not meet the requirements for renewal."⁸⁷ Renewal requires ten hours of Board-approved continuing education each year.⁸⁸ Recent continuing education programs include "Overview of Family Law," presented by the Arizona Association of Independent Paralegals,⁸⁹ "Overview of Family Law: How to Navigate through the Legal System," presented by the Superior Court in Maricopa County at the Fresh Start Women's Foundation,⁹⁰ and "Representing Yourself in Court," presented by the Superior Court in Coconino County,

⁸⁰ ACJA. (E)(4)(a) (2005). Those certified after April 1, 2005 may take the examination 90 days after they are certified, if such date is later than September 1, 2005.

⁸¹ ACJA. (E)(4)(b)(1) (2005). See pages 26-28 for more detailed discussion of the Board.

⁸² ACJA. Section 7-208. Appendix B Fee Schedule. (2005). Business entities pay the same fee.

⁸³ See footnote 82. Business entities pay the same fee.

⁸⁴ See footnote 82. Certified LDPs need not pay an examination fee.

⁸⁵ ACJA Section 7-208 (D)(2) (2005).

⁸⁶ ACJA Section 7-208 (G)(1) (2005).

⁸⁷ ACJA Section 7-208 (G)(6) (2005).

⁸⁸ ACJA Section 7-208 (G)(4) (2005).

⁸⁹ Programming Approved for LDP Continuing Education Credit.

<<http://www.supreme.state.az.us/cld/pdf/Current%20Approved%20LDP%20CE%20Opportunities.pdf>> (accessed June 16, 2005).

⁹⁰ Ibid.

Coconino County Board of Supervisors, and the Coconino Clerk of the Superior Court.⁹¹ Failure to timely comply with the continuing education requirement may result in a \$25 fee, denial of a renewed certificate, and/or other disciplinary action.⁹²

C. Administration and Enforcement

The Arizona Supreme Court is charged with administering the Legal Document Preparer Program,⁹³ which is self-funded through LDP fees, discussed above. The Chief Justice of the Court appoints all eleven members of the Board of Legal Document Preparers: one judge or court administrator, five certified LDPs with at least five years of experience, the administrative director of the courts or a designee, one superior court clerk or a designee, one attorney, and two professionals who are not involved in law or the courts.⁹⁴ Board members have initial appointments of one, two, and three years.⁹⁵ The Board recommends to the Court policies, procedures and rules for LDPs, including fees, testing requirements, code of conduct, and continuing education.⁹⁶ It also issues certificates, directs the program coordinator to investigate possible violations, and adjudicates alleged violations.⁹⁷ The program coordinator, appointed by the Director of the Administrative Office of the Courts, is also charged with administering the program by attending Board meetings, forwarding fees and other monies for the Legal Document Preparer Fund to the state treasurer,⁹⁸ making recommendations regarding certification, complaints, and other LDP matters,⁹⁹ and maintaining a master list of certified LDPs.¹⁰⁰

⁹¹ Ibid.

⁹² Continuing Education Policy (G)(2)(a)-(c). Arizona Board of Legal Document Preparers. Continuing Education Policy. <<http://www.supreme.state.az.us/cld/pdf/LDP%20Continuing%20Education%20Policy.pdf>> (June 16, 2005).

⁹³ ACJA Section 7-208(D)(1)(a).

⁹⁴ ACJA Section 7-208(D)(4)(a).

⁹⁵ ACJA Section 7-208(D)(4)(b).

⁹⁶ ACJA Section 7-208(D)(4)(c).

⁹⁷ ACJA Section 7-208(D)(4)(c).

⁹⁸ ACJA Section 7-208(D)(3).

⁹⁹ Ibid.

Judicial officers, "their designees[,] and all certified legal document preparers" are required to, and anyone else may, give notice to the program coordinator of "personal knowledge [that] a certificate holder has violated ... code section" 7-208.¹⁰¹ Complainants must include their name and telephone number.¹⁰² After the program coordinator receives a complaint, she first conducts an initial screening, and then recommends the board's dismissal of the complaint, refers the complaint to an appropriate state entity, or proceeds to conduct a preliminary investigation. In the event of a preliminary investigation, the program coordinator must within 15 days deliver the complaint to the LDA who must respond in writing.¹⁰³ After the preliminary investigation, the program coordinator prepares a written summary that includes a disposition recommendation.¹⁰⁴ The deputy director can direct further investigation or concur with the recommendation, providing to the board the complaint, summary, and recommendation.¹⁰⁵ The Board may then determine that there was no violation, order more investigation, determine that the complaint is resolvable without formal proceedings, or file formal charges.¹⁰⁶ Formal proceedings require notice of an LDA's right to a hearing.¹⁰⁷ The hearing officer provides to the Board written recommendations, which include factual findings and legal conclusions.¹⁰⁸ LDPs may request a rehearing pursuant to Arizona Rules of Civil Procedure, rule 59.¹⁰⁹ Finally, the board must render a written final decision, including factual findings and legal conclusions,¹¹⁰ and may take disciplinary action including mandating additional training, issuing a cease and

¹⁰⁰ ACJA Section 7-208(D)(3)(d).

¹⁰¹ ACJA Section 7-208(H)(2)(a).

¹⁰² ACJA Section 7-208(H)(2)(b).

¹⁰³ ACJA Section 7-208(H)(4). The LDP has 10 days to respond.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ ACJA Section 7-208(H)(5).

¹⁰⁷ ACJA Section 7-208(H)(6).

¹⁰⁸ ACJA Section 7-208(H)(12). The standard for the factual findings is preponderance of the evidence.

¹⁰⁹ ACJA Section 7-208(H)(13).

¹¹⁰ ACJA Section 7-208(H)(14).

desist order, issuing a warning, ordering that a certificate be revoked or suspended, or imposing restitution for economic damages.¹¹¹ Decisions by the Board are final and judicial review may only be sought pursuant to Arizona Rules of Procedure for Special Actions.¹¹²

D. Status of Current Statistics and Commentary by Officials

The Arizona Board of Legal Document Preparers provides a list of certified LDPs, which is available to the public on the Program's web site.¹¹³ Currently, there are over 600 certified LDPs.¹¹⁴

In response to requests for access to conduct research, the Program Coordinator noted, "as in San Francisco and Santa Clara, court records are open to the public" and provided a phone number for a Clerk's Office.¹¹⁵ She also added that "[f]or numerous reasons, the LDP Program cannot assist with the research."¹¹⁶ In turn, for numerous reasons more specific information was not available and an assessment of consumer satisfaction in Arizona could not be conducted.¹¹⁷

VII. LIMITATIONS OF STUDY

This study was intended to provide a basic examination of consumer satisfaction with the services provided by legal document assistants/preparers. As noted earlier, we were not able to survey any consumers in Arizona.

¹¹¹ ACJA Section 7-208(H)(14).

¹¹² ACJA Section 7-208(H)(14).

¹¹³ Supreme Court of Arizona, Legal Document Preparer Program. <<http://www.supreme.state.az.us/cld/ldp.htm>> (accessed June 16, 2005).

¹¹⁴ Supreme Court of Arizona, Legal Document Preparer Program. <<http://www.supreme.state.az.us/cld/images/LDP%20Directory%204-21-05.pdf>> (accessed June 18, 2005).

¹¹⁵ Communication with Linda Grau. July 21, 2004.

¹¹⁶ Ibid.

¹¹⁷ After a number of communications with various people involved in Arizona's LDP Program, we formally contacted the Arizona Board of Legal Document Preparers to place our request for assistance with our study on their agenda. Unfortunately, we failed to gain access to any Arizona dissolution files and could not reach LDP consumers to complete the study. Interestingly however, subsequent Board meeting minutes revealed that "[t]he Board discussed HALT's solicitation and evaluations done by other independent companies[]" and that the LDP Program "is subject to an audit by the Auditor General." See Supreme Court Board of Legal Document Preparers. July 26, 2004 Approved Meeting Minutes. <<http://www.supreme.state.az.us/cld/pdf/07262004%20minutes.pdf>> (accessed 17 June 17, 2005).

The 47 pro se litigants who were interviewed for this study were all Californians who used the assistance of an LDA in pursuing relatively simple marriage dissolutions. Identifying these individuals was perhaps the most difficult part of this study. As previously mentioned in the methodology section, we reviewed almost 3,000 marriage dissolution files in San Francisco, Alameda, and Santa Clara counties, an undertaking that would have not been feasible without the cooperation of local court officials and the Administrative Office of the Courts. Many LDA consumers' dissolutions were still pending and their level of satisfaction with LDAs may differ from the consumers we surveyed. Also, many consumers whose dissolutions were finalized could not be reached because the contact information taken from the court files was no longer valid.

In our work in California, language barriers prevented us from interviewing about 60 people. Most of these persons used the services of two LDA offices; notably, it was with these providers that Williams and Tapley had the most issues. Given our inability to assess the satisfaction of limited-English speakers with LDA services, coupled with the vulnerability of the population, a comprehensive effort is required to fully assess consumer satisfaction and to protect consumer interests.

As previously mentioned, this study focused only on those consumers receiving help with marriage dissolution cases. Examining how LDAs perform in other areas such as evictions, living trusts, name changes, and bankruptcy would give a more complete assessment of consumer satisfaction and of LDAs' abilities and limitations. The difficult part, of course, would be the identification of individuals who used LDAs for such services. As our work in both

California and Arizona revealed, it is difficult to identify the consumers themselves, let alone assess their satisfaction with their LDA.¹¹⁸

VIII. CONCLUSION AND RECOMMENDATIONS

California and Arizona have two different legal approaches to the same profession. In California, the legislature provided a broad statutory framework and courts and county governments then had to fill in the gaps. In Arizona, the Arizona Board of Legal Document Preparers, under the Arizona Supreme Court, provides regulation uniform throughout the state. As for the question of the superior method with respect to the consumer, without access to Arizona data, we are unable to reach any conclusion on the matter.

As noted earlier, one California consumer commented, "so little was at stake, it wasn't a huge deal." While some might not feel that they have much at stake in their divorce because they lack assets to divide, it is primarily those people for whom the significance of LDAs is huge, as access to justice that is otherwise unobtainable is at stake. This research has shown that the consumers in this albeit small sample are satisfied with services provided by their LDAs. However, as noted earlier, a significant limitation of this study is that the voices of those LDA consumers whose cases remain pending over a year after filing the petition for dissolution, those who do not speak English, and those whose LDAs either inadvertently or purposefully failed to stamp legal documents as required by law remain largely unheard and unconsidered. Those we had the opportunity to listen to have voiced a unanimous belief that LDAs provide an important service for those who cannot afford representation at divorce.

¹¹⁸ Hundreds of hours were spent filtering through thousands of files to identify documents prepared by LDAs; if regulation and oversight of LDAs were more streamlined it may have enabled us to identify and survey more LDA consumers and to conduct a more comprehensive assessment of consumer satisfaction.