Law by Non-Lawyers:
The Limit to Limited License Legal Technicians
Increasing Access to Justice

Rebecca M. Donaldson*

ABSTRACT
For the first time in the American legal profession, non-lawyers can openly, independently, ethically, and legally engage in activities recognized by bar associations as the practice of law. In 2012, the Washington Supreme Court passed Admission and Practice Rule 28 (APR 28), establishing the profession’s first paraprofessional licensing scheme that allows non-lawyers to give legal advice. The process authorizes qualified non-lawyers to provide legal advice without the supervision of a lawyer. Washington’s Supreme Court intends for Limited License Legal Technicians, or “LLLTs” as they are known, to increase access to justice by responding to the unmet civil legal needs of Washington residents, mirroring a broader call in the legal profession for service delivery models that triage the simpler cases from the complex. Doing so, the LLLT model aims to better meet the needs of those who cannot otherwise afford professional legal help.

Will the LLLT model increase access to justice? That depends on how we define “justice”—more specifically, justice for whom? LLLTs have prompted anticipation that the model will do its part to close the gap on the unmet civil legal assistance needs of low- and moderate-income populations, a need perhaps best shown by Washington State’s Civil Legal

*Harvard Law School, J.D. 2016. Special thanks to Jim Greiner and Jeanne Charn for their formative advising. Further thanks to David Wilkins, Bryon Fong, and the Harvard Law School Center on the Legal Profession for their mentorship, as well as to the Washington State Bar Association for their openness in fostering dialogue on the model. Thank you to Deborah Rhode, Martha Minow, Elizabeth Chambliss, Nick Robinson, Korey Lundin, Vivek Maru, Abigail Moy, William Alford, Akhila Kolisetty, Ledina Gocaj, and Fernando Berdion Del Valle for their reactions, feedback, and insights. Special thanks to Deborah Chamberlain for inspiring me to write, and to Steve Gorodetskiy for his enduring support. This Article benefited from Harvard Law’s Center on the Legal Profession Public Interest Research Grant and Summer Academic Fellowship. This piece received the school’s Davis Polk Legal Profession Writing Prize. Thank you to Joshua Harms and the Seattle University Law Review team for their edits. All errors remain the author’s.
Needs studies. Yet to fully understand the model and its potential, we must look more closely at who will benefit from it and, critically, who will not.

This Article finds that the LLLT model is not designed to increase access to justice for those from low-income populations. This conclusion is based on first-hand interviews with the architects of the model as well as on original surveys and interviews conducted with the first two cohorts of LLLTs and LLLT Candidates. LLLTs and Candidates expect to keep their pricing schemes high enough to bring in a sustainable revenue stream, intend to work primarily through traditional legal service delivery models at law firms and as solo practitioners, and overall do not report highly salient motivation to target low-income clientele relative to their other motivations for becoming an LLLT. From all of this, we do not have reason to believe that low-income legal consumers will better access justice through the current LLLT model.

This Article first sets forth the context for why and how to weigh whether the model will increase access to justice for low-income populations, and then analyzes why, based on LLLTs’ and Candidates’ responses, we do not have reason to believe that the model will expand access to justice in an appreciable way for low-income consumers. The Article then contemplates the implications of this finding, which Washington and other states may wish to consider as they develop legal paraprofessional licensing schemes like the LLLT model and, ultimately, determine who will gain access to justice through such models.

CONTENTS

ABSTRACT ....................................................................................... 1

INTRODUCTION ................................................................................ 3

A. The Development of the LLLT Model ....................................... 3

B. The Purposes of the LLLT Model ........................................... 10

C. The Ambiguity of the Model’s Intent to Increase Access to Justice ................................................................. 12

I. METHODOLOGY .......................................................................... 16

II. THE LLLT MODEL IS NOT DESIGNED TO INCREASE ACCESS TO JUSTICE FOR LOW-INCOME LEGAL CONSUMERS........ 18

A. The Continuing Structural Constraints of the Legal Market .................................................................................. 19

1. Parallel Market Structures .......................................................... 26

2. Parallel Gauging ....................................................................... 37
INTRODUCTION

A. The Development of the LLLT Model

Americans across the country struggle to afford legal assistance.1 Our adversarial legal system assumes that parties who participate can engage legal counsel as needed, but that is not reality.2 The legal


2. See RHODE, supra note 1, at 14 (“In most discussions, ‘equal justice’ implies equal access to the justice system. The underlying assumption is that social justice is available through procedural justice. But that, of course, is a dubious proposition. Those who receive their ‘day in court’ do not always feel that ‘justice has been done,’ and with reason. . . . Even those who win in court can lose in life. Formal rights can be prohibitively expensive to enforce, successful plaintiffs can be informally
profession has not achieved a comprehensive, sustainable solution to this challenge, which is commonly referred to as the “justice gap.” American lawyers remain largely cost prohibitive. Legal aid can only assist so many of those who need but cannot afford legal assistance. Civil Gideon—the concept of a legal right to a lawyer in civil cases—remains a quixotic call for the foreseeable future. Pro bono legal assistance from private law firms or practitioners only goes so far, while challenges to its expansion

3. See generally RHODE, supra note 1; SANDEFUR & SMYTH, supra note 1; LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 9 (2009), https://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGaInAmerica2009.authcheckdam.pdf [https://perma.cc/4LN7-8HC3]. The “justice gap” is commonly understood to include the unmet civil legal needs of low-income populations, though it has also been used to describe the gap in available affordable legal services for moderate-income populations. See, e.g., Gene Johnson, Washington Experiments with More Affordable Legal Advice, SEATTLE TIMES (Sept. 27, 2015, 4:55 PM), https://www.seattletimes.com/seattle-news/washington-experiments-with-more-affordable-legal-advice/ (quoting Deborah Rhode’s comment on the “crucial need” for models to close the justice gap, noting “over four-fifths of the legal needs of poor people and close to one-half of the needs of moderate income people are not being met”).


5. LEGAL SERVS. CORP., supra note 3, at 12 (“[F]or every client served by an LSC-funded program, at least one eligible person seeking help will be turned down due to limited resources.”) (emphasis omitted); RHODE, supra note 1, at 13–14.

6. See Gary Bellow & Jeanne Charn, From Ethics to Politics: Confronting Scarcity and Fairness in Public Interest Practice, 58 B.U. L. REV. 337, 354–62 (1978) (expressing skepticism that resources could sufficiently increase to provide legal services to everyone to the same extent enjoyed by the affluent); Jeanne Charn, Celebrating the “Null” Finding: Evidence-Based Strategies for Improving Access to Legal Services, 122 YALE L.J. 2206, 2227 (2013); D. James Greiner & Cassandra Wolos Pattanayak, Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?, 121 YALE L.J. 2118, 2209–10 (2012); see also Turner v. Rogers, 564 U.S. 431 (2011) (holding that a father facing imprisonment for contempt of court after failure to pay child support was not entitled to counsel); Lassiter v. Dept’y of Soc. Serv., 452 U.S. 18 (1981) (holding that an indigent parent does not have a right to counsel in a custody case based on the Eldridge factors). But see RHODE, supra note 1, at 113 (“Establishing a similar [Gideon] entitlement for at least some categories of civil matters should remain a priority.”).

7. See RHODE, supra note 1, at 16–17, 145; Hadfield, supra note 4, at 156; Sandefur, supra note 4, at 966; Hadfield Testimony, supra note 4.
remains. Courthouse help desks may (or may not) assist pro se litigants in filing the right form or “finding the bathroom,” but the need for their staff to remain neutral to the parties in a dispute restricts their ability to give case-specific advice and thus their helpfulness. Special advocates who are not trained in law may help litigants navigate the nuts and bolts of the legal system or accompany clients to court, but they cannot advise on how the law will play out and, accordingly, how a client should proceed. Even more sweeping deregulatory efforts that would allow non-lawyers to own and share in the profits of legal service efforts do not ensure that low- and moderate-income populations will gain greater access to the courts.

The State of Washington is no different. As established in Washington’s 2003 Civil Legal Needs Study, a key initiative to collect insights from more than 1,000 low- and moderate-income Washington households, the state’s low-income population faces more than 85% of their legal needs without an attorney. An updated version of the study in 2015 focused on lower-income households and shows that the challenge continues; more than three-quarters of those households with a civil legal matter either did not seek or were not able to obtain legal help.

---

8. See Greiner & Pattanayak, supra note 6, at 2209 (“Despite the best and continuing efforts of the civil Gideon and access to justice movements, and the need for greater funding for legal services provision, it may be time to face the fact that there will never be enough funding to provide a full attorney-client relationship with a competent lawyer to all low-income persons interacting with, or contemplating interaction with, the legal system.”). See generally Scott L. Cummings & Rebecca L. Sandefur, Beyond the Numbers: What We Know—and Should Know—About American Pro Bono, 7 HARV. L. & POL’Y REV. 83, 109–11 (2013) (noting that “there is reason to be concerned that the well of pro-bono resources will shrink” where corporate clients push to aggressively minimize costs).

9. RHODE, supra note 1, at 83.

10. See id.

11. See Nick Robinson, When Lawyers Don’t Get All the Profits: Non-Lawyer Ownership, Access, and Professionalism, 29 GEO. J. LEGAL ETHICS 1, 15 (2016) (arguing that non-lawyer ownership is likely to be quite different than conventional wisdom suggests in part because “there is reason to doubt that these changes will lead to significantly more access to legal services for poor and moderate income populations”).


13. SOC. & ECON. SCI. RESEARCH CTR., WASH. STATE UNIV., WASH. STATE SUPREME COURT, CIVIL LEGAL NEEDS STUDY UPDATE JUNE 2015 2, 45 (2015) [hereinafter CIVIL LEGAL NEEDS STUDY 2015], http://ocla.wa.gov/wp-content/uploads/2015/06/CLNS14-Executive-Report-05-28-2015-FINAL1.pdf [http://perma.cc/B343-EXKG]. It is important to note that the two studies differ in their definitions of low-income household. The 2003 study defines low-income households as those living at or below 125% of the Federal Poverty Level (FPL), with a separate category defined for low-moderate income (125–200% FPL) and high-moderate income (200–400% FPL) individuals and households. CIVIL LEGAL NEEDS STUDY 2003, supra note 12, at 19. However, the 2015 study defines low-income as those living below 200% of the FPL, distinguishing between those who are “low income” (125–200% FPL) and “very low income” (under 125% FPL). CIVIL LEGAL NEEDS STUDY 2015, supra note 13, at 6, 11.
day, Washington courts handle thousands of pro se litigants. In family law in particular, courts saw a spike in pro se litigants in the 1970s when divorce rates began to rise, leading many family law cases to have at least one self-represented litigant. The pro se trend persists. Litigants today often represent themselves, sometimes leaning on websites or other sources for unauthorized legal advice, much to the chagrin of legal professionals and possibly to the detriment of the pro se parties themselves.

Attorneys and judges in Washington took note. Decades of evidence on this issue along with years of debate about the right solution ultimately spurred the Washington Supreme Court to pass Admission and Practice Rule 28 (APR 28) in 2012, creating a whole new category of legal service provider: Limited License Legal Technicians (LLLTs). The rule sets forth a framework to regulate, license, and authorize non-lawyers to practice law in certain contexts. In doing so, Washington became the first state in the nation to allow non-lawyers to openly, independently, ethically, and legally engage in activities recognized by bar associations as the practice of law—albeit on a limited basis.

15. Barbara Madsen & Stephen Crossland, The Limited License Legal Technician: Making Justice More Accessible, NW LAW., Apr.–May 2013, at 23, 23–24 (discussing how the WSBA established committees to address the rise in the unauthorized practice of law, which was “dramatically true in family law cases where courts in the 1970s began reporting large increases in family law cases involving at least one party not represented by an attorney”). The LLLT model assumes that pro se litigants generally have a moderate or low income, though more data would be useful to support this assumption.
18. See Wash. C.t. GR 25(a) (stating that the purpose of the WSBA includes “enfor[cing] rules prohibiting individuals and organizations from engaging in unauthorized legal and law-related services that pose a threat to the general public”). But see Greiner & Pattanayak, supra note 6, at 2118 (presenting empirical evidence that gives reason to question whether the presence of a legal aid lawyer actually helps a client win, when the client selection process may bias selection in favor of easier cases that are likely to win regardless of legal assistance).
21. See Stephen R. Crossland & Paula C. Littlewood, The Washington State Limited License Legal Technician Program: Enhancing Access to Justice and Ensuring the Integrity of the Legal Profession, 65 S.C.L. Rev. 611, 612 (2014). The architects of the model do not prefer the term “non-lawyer” since the term can be construed as separating, othering, and downplaying the roles served in the legal profession by those who are not attorneys. Moreover, the term emphasizes what LLLTs are not, rather than what they are: licensed professionals. Short of finding a substitute term that can clearly
APR 28 pursues two objectives: inhibit the unauthorized practice of law and increase access to justice.\textsuperscript{22} Practically, APR 28 allows LLLTs to ask their clients about relevant facts,\textsuperscript{23} draft and review documents,\textsuperscript{24} inform clients about procedures and deadlines,\textsuperscript{25} and most significantly, advise clients on the law.\textsuperscript{26} Because their licensing requirements allow for more limited training than law schools, at least in some respects, Washington authorizes LLLTs to provide advice and services in a more limited scope than licensed attorneys. For instance, LLLTs cannot represent clients in court or negotiate with opposing counsel.\textsuperscript{27} In fact, their clients are still considered pro se.\textsuperscript{28} For any issues or services not within their scope, LLLTs must refer their clients to a lawyer.\textsuperscript{29} Because of LLLTs’ limited training and scope, the Washington Supreme Court and Washington State Bar Association (WSBA) expect that legal technicians will be able to advise on more routine cases at a lower cost than lawyers, thus expanding access to legal assistance for pro se litigants who would and efficiently communicate the significance of the development to have people who are not lawyers getting licensed as professionals in the field, this Article uses the term “non-lawyer” and welcomes suggestions on a new term that can encompass all of these considerations.

\textsuperscript{22} Steve Crossland, Restore Access to Justice Through Limited License Legal Technicians, GPSolo, May/June 2014, at 56, 58 (“The driving principles of the program are to meet the unmet need for access to the legal system and to do so in a manner that will serve and not harm the public.”).

\textsuperscript{23} APR 28(F)(1).

\textsuperscript{24} APR 28(F)(5)–(7).

\textsuperscript{25} APR 28(F)(2)–(3).

\textsuperscript{26} APR 28(F)(6)–(8).

\textsuperscript{27} See APR 28(H)(5)–(6). This could change. The LLLT Board has proposed amendments to APR 28. See Ltd. License Legal Technician Bd., Draft Suggested Amendments to APR 28, WASH. ST. B. ASS’N (Aug. 16, 2017), https://www.wsba.org/docs/default-source/licensing/llt/draft_apr_28.pdf?sfvrsn=e93bf1_0 [https://perma.cc/42UC-L7UZ] [hereinafter Draft Suggested Amendments, APR 28]. These proposed amendments, pending comments from the public, would allow LLLTs to “[c]ommunicate and negotiate with the opposing party or the party’s representative regarding procedural matters, such as setting court hearings or other ministerial or civil procedure matters” and “[n]egotiate the client’s legal rights or responsibilities provided that the client has given written consent defining the parameters.” Draft Suggested Amendments, APR 28(F)(12)–(13). Under the proposed amendments, LLLTs would also be able to accompany, assist, and confer with their clients at depositions, “present to a court agreed orders, uncontested orders, default orders and accompanying documents,” and “assist and confer with their pro se clients and respond to questions from the court or tribunal” under certain circumstances. Draft Suggested Amendments, APR 28 Reg 2(B)(2)(f)–(h).

The LLLT Board unanimously approved the updated suggested amendments to APR 28, but they are yet to be approved by the Washington Supreme Court as of this publication. See LLLT Board, Meeting Minutes, WSBA (Aug. 17, 2017), https://www.wsba.org/docs/default-source/legalcommunity/committees/llt-board/2017-08-17-meeting-minutes---approved.pdf?sfvrsn=2f973bf1_0 [https://perma.cc/43SH-XSCV]; LLLT Board, Meeting Minutes, WSBA (July 9, 2018), https://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/LLLT-board [https://perma.cc/G4QY-Y96M].

\textsuperscript{28} See Holland, supra note 19, at 105 (citing Letter from Mark Johnson, WSBA President, to Wash. State Supreme Court 1 (Sept. 26, 2008)).

\textsuperscript{29} APR 28(G)(4).
have sought legal advice but for the price tag.30 The model offers a bold experiment to expand access to justice, and its champions acknowledge it as just that—an experiment.31

The model will eventually expand the legal issues on which LLLTs can work. The first cohorts will be authorized to work in family law,32 including cases involving domestic violence,33 because family law comprises a substantial proportion of unmet civil legal needs. The Legal Services Corporation has consistently found that one-third of all cases closed by their grantees deal with family law,34 and the LLLT model started with family law because the courts see so many pro se litigants in this area.35 The model has been designed to expand to other issues in the

30. See Madsen & Crossland, supra note 15, at 24 (“If the law has become so complex that legal training is required just to fill out a form, where is the space for the little person who needs a simple divorce? There’s a huge need for elementary legal advice and we’re not meeting it.”); Crossland & Littlewood, supra note 21, at 613 (“One of the supreme court’s mandates to the [Practice of Law Board] for GR 25 was ‘to address access-to-justice issues for those who cannot afford attorneys’ by recommended ways to authorize nonlawyers to engage in certain defined activities that would otherwise constitute the practice of law . . . .”) (internal citations omitted).

31. Elizabeth Chambliss, Law School Training for Licensed “Legal Technicians”? Implications for the Consumer Market, 65 S.C. L. REV. 579, 588–89 (2014) (“Washington bar officials acknowledge the uncertain business model for LLLTs . . . . While opponents worry that LLLTs will take solo and small firm lawyers’ business, proponents worry that LLLTs may have a hard time making a living. . . . Although there is no shortage of unmet legal need in Washington, or elsewhere, it is unclear how private paraprofessional practice aimed at the back-end legal needs of low- and middle-income consumers will be any more viable than private law practice in that market . . . .”) (internal citations omitted); see also Order for APR 28, supra note 14, at 8 (wherein the Washington State Supreme Court admits that, upon adopting APR 28, they cannot foresee what will come of the LLLT model as “[n]o one has a crystal ball.”).

32. APR 28 REG. 2(B); Holland, supra note 19, at 99 n.113 (citing Letter from Practice of Law Board to Wash. State Supreme Court 2 (Jan. 7, 2008)). The Rule started by authorizing LLLTs to advise on family actions for better or for worse. The great need for legal assistance in family law matters exists in tension with concern from the WSBA Family Law Section Executive Committee and family law attorneys more generally, who point out that this “is one of the most challenging areas of legal practice” and that “[c]ontrary to the misperception of some, family law is quite complex.” Jean Cotton, Legal Technicians Aren’t the Answer: The Family Law Section’s Executive Committee Weighs In, WASH. STATE B. NEWS, July 2008, at 30, 31. And the stakes are high. Should LLLTs err, potential problematic outcomes include loss of custody or contact with one’s children, or misidentification of fathers, for example. Id.

33. See APR 28 REG. 2.


35. See Crossland & Littlewood, supra note 21, at 616; WASH. STATE BAR ASS’N, LEGAL TECHNICIAN FAQs, http://perma.cc/P4A9-AM35 [hereinafter WSBA FAQs]; see also Hadfield, supra note 16, at 960 (in 1990, 88% of litigated family law cases in the U.S. had at least one party who arrived unrepresented or defaulted); Telephone Interview with Stephen Crossland, Chair, LLLT
future, including landlord–tenant and elder law, since these areas also see a lot of pro se litigants.36

Before APR 28 came along, courts and advocates had developed other non-lawyer models, including special advocates37 and courthouse clerks,38 who could provide information and support but not legal advice per se. Washington has Limited Practice Officers who select and prepare documents to close real estate deals.39 Washington also has a Moderate Means Program (MMP) where parties who fall between 200% and 400% of the Federal Poverty Level (FPL) can connect with attorneys who agree to provide reduced-fee services.40

Meanwhile, the WSBA initiated efforts in the 1980s and 1990s to figure out what to do about the growing number of pro se litigants and the corresponding trend of non-lawyers offering legal help, particularly in family law.41 To better regulate non-lawyers engaging in the unauthorized practice of law, the WSBA created the Committee to Define the Practice of Law, which led to the Washington Supreme Court issuing General Court Rules 24 (GR 24) and 25 (GR 25) to define the practice of law and establish the state’s Practice of Law Board (POLB), respectively.42 The Washington Supreme Court mandated the POLB “to address access-to-justice issues for those who cannot afford attorneys by recommending ways to authorize nonlawyers” to practice law in certain ways as defined by GR 24, which in time led to the creation of APR 28 and the LLLT licensing scheme.43

LLLTs offer a tangible opportunity for practitioners and legal scholars to test a potential solution that has garnered much discussion: embracing non-lawyers as a means to close the justice gap.44 The model

---


36. WSBA FAQs, supra note 35; see also Holland, supra note 19, at 99 n.113 (citing Letter from POLB to Wash. State Supreme Court 2 (Jan. 7, 2008)); Interview with Crossland & Littlewood, supra note 35.

37. See, e.g., Sarah M. Buel, Domestic Violence and the Law: An Impassioned Exploration for Family Peace, 33 Fam. L.Q. 719, 733, 738 (1999) (speaking to the potential usefulness of properly trained Court-Appointed Special Advocates (CASAs)).

38. See RHODE, supra note 1, at 83.

39. Holland, supra note 19, at 90 n.65.


42. Id.

43. Id. at 613.

44. See, e.g., JEANNE CHARN & RICHARD ZORZA, CIVIL LEGAL ASSISTANCE FOR ALL AMERICANS, BELLOW-SACKS ACCESS TO CIVIL LEGAL SERVICES PROJECT 3 (2005), http://www.courts.ca.gov/partners/documents/bellow-sacks.pdf [https://perma.cc/28AE-8ZGR] (calling for holistic reform with a spectrum of available tools in order to provide full access to legal services, including “expanded paralegal practice with appropriate quality assurances and consumer protections”
for law draws inspiration from the much acclaimed but difficult-to-document success of the nurse practitioner model in medicine.\textsuperscript{45} However, perhaps unsurprisingly, legal paraprofessionals have faced flak alongside fanfare.\textsuperscript{46} Almost half a century ago, the \textit{New York Times} reported on the debate regarding paralawyers, which featured professional-caste-system tensions: who benefits from the training and the services?\textsuperscript{47} Similar questions surround the model today. Will LLLTs undercut lawyers’ market share? Will they fail to provide competent legal services? Or will their inherently limited scope stifle their value?\textsuperscript{48}

\textbf{B. The Purposes of the LLLT Model}

Out of these questions and developments, in 2005 the POLB drafted a rule to create the LLLT model.\textsuperscript{49} The model’s twin aims reflect the debates leading up to the passage of APR 28. The rule grew out of decades of discussions about the creation of paraprofessional models for the state.\textsuperscript{50}
The rule passed in 2012, seven years after it was first drafted, naturally involving compromises along the way.\(^{51}\) According to some of its main architects, the LLLT model seeks to “address the staggering unmet civil legal needs of the public in Washington” and “to curb, if not eliminate, the burgeoning prevalence of people providing purported legal services without any requisite training or regulatory oversight.”\(^{52}\) Like the rest of the country, some of the biggest hurdles to creating paraprofessional models in Washington came from the WSBA, whose job entails, in part, safeguarding the sanctity of the profession in order to protect the public from the risks of the unauthorized practice of law.\(^{53}\)

LLLT skeptics point out the Bar’s interest in protecting business for lawyers, which paraprofessionals could threaten.\(^{54}\) Perhaps because of this, the order issuing APR 28 assures that LLLTs are “unlikely to have any appreciable impact on attorney practice.”\(^{55}\) By incorporating the goal to stem the tide of unauthorized practice of law, APR 28 heads off the Bar’s argument by aligning the rule’s interest with theirs.\(^{56}\) APR 28’s advocates have essentially argued, “If you can’t beat them, join them.” The steady rise of unauthorized practice has shown that litigants will seek alternative means to obtain legal assistance with or without the Bar. As such, the Bar could try to maintain influence and control quality by engaging in the process to determine a licensing scheme for non-lawyers rather than eschewing the tide and missing out on the conversation altogether.\(^{57}\) The origins of the model, the scheme’s rigorous

\(^{51}\) See Crossland & Littlewood, supra note 21, at 612.

\(^{52}\) Id.; see Order for APR 28, supra note 14, at 2.

\(^{53}\) Hadfield, supra note 4, at 154; Holland, supra note 19, at 89.

\(^{54}\) Holland, supra note 19, at 89; see also RHODE, supra note 1, at 83; Chambliss, supra note 31, at 581–83.

\(^{55}\) Order for APR 28, supra note 14, at 8. To this point, Steve Crossland, one of the main architects of the model, notes: “If [this] segment of the market were being served by our profession, we wouldn’t be having this discussion.” Crossland, supra note 22, at 58.

\(^{56}\) See Crossland & Littlewood, supra note 21, at 613; Holland, supra note 19, at 91–92, 94.

\(^{57}\) Chambliss, supra note 31, at 583 (stating that non-lawyer practice is “already widespread and expanding,” thus narrowing the Bar’s choice from whether to how to regulate non-lawyer practice); Holland, supra note 19, at 113 (quoting Chief Justice Barbara Madsen’s rationale for adopting APR 28: “In adopting this rule we are acutely aware of the unregulated activities of many untrained, unsupervised legal practitioners who daily do harm to ‘clients’ and to the public’s interest in having high quality civil legal services provided by qualified practitioners.”). Judges may have been further persuaded by the tide of litigants in their courts who had sought legal advice from unauthorized sources. Further, judges may have been persuaded at the prospect of easing docket congestion; pro se litigants may no longer come to court “unprepared” and “bewildered.” Crossland & Littlewood, supra note 21, at 614. Further, a 2014 report showed that, according to court surveys, unprepared pro se litigants slow down court functions and, most critically, contribute to questionable justice outcomes. BARBARA A. MADSEN, WASH. COURTS, 2014 STATE OF THE JUDICIARY 5 (2014), https://www.ncsc.org/Topics/Court-Management/Interbranch-Relations/~media/A9A804CD9F054D6E81FEAA66D5609C524.ashx [https://perma.cc/B2WG-EA2P].
qualifications, the training’s focus on the meaning of unauthorized practice, and the distinction between the scope of LLLTs’ and lawyers’ work\textsuperscript{58} suggest the significance, or even predominance, of the goal to stem unauthorized practice. At the same time, APR 28 seeks to increase access to justice. To the extent that this objective aspires to provide greater access to professional legal assistance for those who otherwise could not afford it, these twin aims exist in tension, emphasizing the need to clarify the kind of justice to which APR 28 aims to increase access.

C. The Ambiguity of the Model’s Intent to Increase Access to Justice

With the scheme up and running, we must ask: Who gains access to justice through LLLTs?

APR 28, the rule giving rise to the LLLT model, says that it aims to increase access to justice but seeks plainly to “expand the affordability of quality legal assistance which protects the public interest.”\textsuperscript{59} APR 28 neither defines justice nor explicitly identifies the populations it seeks to assist. The rule’s text does not state whether the LLLT licensing scheme intends to help low- or moderate-income populations, or both.

However, the Washington Supreme Court starts off APR 28 with a statement of purpose. The court begins: “The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met.”\textsuperscript{60} The 2003 Civil Legal Needs Study itself sets out “to conduct a study of the civil legal needs of Washington’s low-income and vulnerable populations.”\textsuperscript{61} The 2003 study looks at data not only from individuals and households who are “low income” (under 125\% FPL), but also from those the study refers to as “low-moderate” (125\%–200\% FPL) and even those who are “high-moderate” (200\%–400\% FPL).\textsuperscript{62} However, the report’s key findings together suggest the crux of the study: low-income populations have a harder time accessing justice than those with a low-moderate or high-moderate income.\textsuperscript{63} As the architects of the model put it, “Several

\textsuperscript{58} See Crossland & Littlewood, supra note 21, at 616–17.
\textsuperscript{59} APR 28(A).
\textsuperscript{60} APR 28(A).
\textsuperscript{61} CIVIL LEGAL NEEDS STUDY 2003, supra note 12, at 5.
\textsuperscript{62} Id. at 19.
\textsuperscript{63} Id. at 8, 23 (“More than three-quarters of all low-income households in Washington state experience at least one civil (not criminal) legal problem each year. In the aggregate, low-income people experience more than one million important civil legal problems annually.”); id. at 23, fig. 1 (“Low-income households are more likely than moderate-income households to have many legal needs.”); id. at 25 (“Low-income people face more than 85 percent of their legal problems without help from an attorney. . . . [They] receive help from an attorney in connection with less than 10 percent of all civil legal issues.”); id. at 33 (“Most legal problems experienced by low-income people affect basic human needs, such as housing, family safety and security, and public safety.”); id. at 37 (“Legal
events and trends led the [Washington] supreme court to adopt the LLLT rule, including the groundbreaking 2003 Civil Legal Needs Study[,]” which “found that 85% of the state’s low-income population had serious civil legal problems involving basic need.” From these sources, we have reason to believe that when passing APR 28 the Washington Supreme Court contemplated that the LLLT model would seek at least in part to meet the unmet civil legal needs of the state’s low-income population.

Further, early discussions have indicated that scholars, press, the model’s architects, and LLLTs and Candidates themselves have anticipated that the LLLT model would address the unmet civil legal needs of Washington’s low-income population, again, at least in part.65
Education and Research

In that market—except possibly by lowering practitioners’ educational debt, enabling them to charge lower rates.

The stated objective of the LLLT program is to increase access to justice for low and middle-income consumers will be any more viable than private law practice in Washington, or elsewhere, it is unclear how private paraprofessional practice aimed at the back-end legal needs of low- and middle-income consumers will be any more viable than private law practice in that market—except possibly by lowering practitioners’ educational debt, enabling them to charge lower rates.

See also Thomas M. Clarke & Rebecca L. Sandefur, Preliminary Evaluation of the Washington State Limited License Legal Technician Program 6 (March 2017), http://www.americanbarfoundation.org/uploads/cms/documents/preliminary_evaluation_of_the_washington_state_limited_license_legal_technician_program_032117.pdf (noting for the purpose of the LLLT model that “[a]expansion of legal service delivery by nonlawyers is . . . probably desirable from the perspective of ‘ordinary Americans’—low- and middle-income individuals and households with unmet legal needs”); id. at 588–89 (internal citations omitted) (“Although there is no shortage of unmet legal need in Washington, or elsewhere, it is unclear how private paraprofessional practice aimed at the back-end legal needs of low- and middle-income consumers will be any more viable than private law practice in that market—except possibly by lowering practitioners’ educational debt, enabling them to charge lower rates.”); id. at 600–02 (citing Deborah L. Rhode, Access to Justice: An Agenda for Legal Education and Research, 62 J. LEGAL EDUC. 531, 531, 541 (2013)) (Low-income clients may not have enough information to select and regulate non-lawyer providers, and the “routine needs of low- and middle-income people” could be met by authorized non-lawyer practitioners who can provide effective, limited services with less expensive educational preparation.); Cooper, supra note 1, at 217–21 (considering how to solve the access to justice crisis for the poor and working class and saying the LLLT model “deserves a chance”); Aprile, supra note 44, at 218 (quoting Letter from Deborah M. Nelson, President, Wash. State Trial Lawyers Ass’n, to the WSBA Bd. Of Governors (Dec. 7, 2006), http://www.courts.wa.gov/court_Rules/proposed/2009Jan/APR28/Erik%20Bjornson.pdf (noting for the purpose of the LLLT model that “[a]limited license legal technician scheme will likely be low- and moderate-income clients”); Steve Crossland, Paula Littlewood & Ellen Reed, Limited License Legal Technician (LLLT) Program, WSBA (2016), https://www.americanbar.org/content/dam/aba/directories/pro_bono_clearinghouse/ejc_2016_38.aut hcheckdam.pdf (noting for the purpose of the LLLT model that “[a]Civil Legal Needs Study conducted in 2003 confirmed that more than 80 percent of Washington’s low- and moderate-income populations experienced a legal need and went without help . . . .”); Become a Legal Technician, WSBA (Apr. 27, 2018), https://www.wsba.org/form-professionals/join-the-
Expectations exist that the LLLT model will help to increase access to justice for low-income people.

At the same time, one of the model’s architects has stated that the LLLT model specifically targets moderate-income consumers, like a family of four who makes $98,000 per year—in other words, “not the poor.” Even the 2003 and 2015 Civil Legal Needs studies define “low income” differently from one another: the 2003 Study refers to those living at or below 125% of the FPL as “low income” with those living at 125–200% of the FPL deemed “low-moderate-income.” In contrast, the 2015 Study groups together all of those living at or below 200% of the FPL as “low income,” delineating those living at or below 125% of the FPL as “very low income.” Given the emphasis by the Washington Supreme Court in the Order issuing APR 28 and by the model’s architects on the results of the 2003 Study as the justification for the LLLT model, and the emphasis in the 2003 Study on the gap in justice for those living at or below 125% of the FPL, it is reasonable to say that those considered “low income” by the 2003 study—those living at or below 125% of the FPL—were contemplated by APR 28 as part of the target LLLT clientele.

With this understanding of access to justice—as a problem that includes low-income consumers living at or below 125% of the FPL—the below findings show that the LLLT model is not designed to increase access to justice in this sense.

* * *

This Article arrived at this understanding through original surveys and interviews conducted with LLLTs and LLLT Candidates to consider their anticipated pricing, intended service delivery models, and self-reported motivations to see who will likely benefit from their services. Part I briefly introduces this method. Part II analyzes LLLTs’ and Candidates’ responses to discern who will use and benefit from LLLT services. This Article finds that LLLTs and Candidates expect to keep their pricing schemes high enough to bring in a sustainable revenue stream, intend to


67. See supra note 13 and discussion therein.

68. See supra notes 60–64 and corresponding text.

69. See supra note 13 and discussion therein.
work primarily through traditional legal service delivery models at law firms and as solo practitioners, and overall do not report highly salient motivation to target low-income clientele relative to their other motivations for becoming an LLLT. In light of these insights, this Article concludes that the LLLT model as designed will not meaningfully increase access to justice for low-income populations. Part III considers the implications of this conclusion and contemplates how the model could be modified to increase access to justice across socioeconomic groups to further close the justice gap.

The Article does not intend to criticize prematurely an experiment that has just begun in earnest. After all, even if the model can better provide access to affordable legal assistance solely for moderate-income populations, it will do its part to close the justice gap. Rather, the Article seeks to offer Washington and other states weighing the adoption of the LLLT model—including California, Oregon, and Utah—70—a nuanced understanding of what it might mean for LLLTs to increase access to justice, as well as factors and definitions to consider if these states intend as part of that goal to increase access to justice for low-income populations.

I. METHODOLOGY

This Article grounds its analysis in original primary research on the perspectives of those closest to the model: the LLLTs and LLLT Candidates who will carry it out on the front lines.71 A more detailed


71. Thomas Clarke and Rebecca Sandefur have since conducted a preliminary program evaluation of the LLLT model—also including structured interviews with 13 of the then 15 certified LLLTs—finding, among other conclusions, that the scope of representation appropriately provides the type of legal assistance that those with unmet civil legal needs require (e.g., help with filling out forms); that LLLTs were adequately competent for the task at hand; and that the model will need to scale in order to achieve sustainable funding. See CLARKE & SANDEFUR, supra note 65, at 8–9, 13. The evaluation notes that the objective of the model is to “increase access to justice for low- and moderate-income persons.” See id. at 6. However, the framework developed for their evaluation, which they propose more generally to evaluate other “roles beyond lawyers” models, does not explicitly seek to evaluate how the LLLT model’s design will influence whether clients’ low- or
breakdown of the methodology used to obtain their responses can be found in the Appendix. What follows here briefly recounts the process and reasoning behind the method, as well as some of its limitations.

In the fall of 2015, the first two cohorts of LLLTs and Candidates received an invitation to participate in this study. The study defined LLLTs as those who had completed all of the LLLT licensing requirements, including passing the LLLT bar exam, while LLLT Candidates included those who had enrolled in, if not taken, the required classes but either had not yet taken the exam or had not yet passed. Of the potential respondents, 15 of 17 LLLTs and 21 of 36 Candidates participated, for an overall participation rate of approximately 68%.73

The study divided the sample into two groups and administered different methods of inquiry—semi-structured phone interviews for LLLTs and online surveys for Candidates—to obtain responses from as many of the initial participants as possible while building in room to dive more deeply into the anticipated work models of those who were closest to starting their LLLT careers.74 The distinction between the two groups ends there. Accordingly, the groups’ aggregated responses appear below.

A hybrid approach that combines qualitative and quantitative approaches, as here, provides a particularly good methodological fit for provisional theoretical models, such as the LLLT scheme, which has until now existed only in concept and has not established itself enough to merit a more rigorous quantitative test about how it works.75 We cannot necessarily project participants’ answers to other LLLT cohorts down the road nor to legal paraprofessional licensing schemes that other states develop based on the LLLT model. Rather, the responses shared here moderate-income status will determine whether they benefit from these models. See generally id.; Rebecca L. Sandefur & Thomas M. Clarke, Designing the Competition: A Future of Roles Beyond Lawyers? The Case of the USA, 67 HASTINGS L.J. 1467, 1468 (2016).

72. See infra app. A – Methodology Details.

73. The responses can be said to reflect those of the LLLT population in Washington, given the response rate and that the analysis does not generalize the responses to a wider population outside of the state. See Mario Luis Small, ‘How Many Cases Do I Need?’: On Science and the Logic of Case Selection in Field-Based Research, 10 ETHNOGRAPHY 5, 17–18, 28 (2009) (critiquing small-n studies that mimic large-n generalizable sampling methods and instead calling for alternatives like case studies that allow for a chance to analyze exceptional circumstances and produce hypotheses based on logical rather than statistical inferences). The present study did not randomize the selection of participants because the sampling pool was coextensive with the entire population and thus did not need to be randomized to generalize responses to a wider population. Similarly, the study was not an experiment testing independent variables, so the design did not include a control group.

74. See infra app. B – Questionnaire. Candidates completed surveys anonymously; LLLTs had to disclose their identities to the author in order to coordinate their interviews but gave their informed consent that their names would not be further disclosed in association with their answers. Harvard’s Institutional Review Board reviewed and approved the study design and instruments.

75. See Amy C. Edmondson & Stacy E. McManus, Methodological Fit in Management Field Research, 32 ACAD. MGMT. REV. 1155, 1160, 1165 (2007).
reflect only the perspectives of the initial cohorts of Washington State’s LLLTs and Candidates as one case study.

There are several limitations. First, the study captures a moment very early in the development of the model. Experiments evolve. For instance, participants’ anticipated pricing could change over time with feedback from clients, potential clients, lawyers, and each other, among other factors. The analysis also relies on self-reported data, which risks flaws, for example when people do not or cannot discern their genuine motivations or even feel social pressure to say what they think people want to hear rather than what they really believe. The Article also faces the same challenge as LLLTs and Candidates: a lack of market data detailing who would use legal technician services, why, how often, where, with what income, for what purpose, and at what price point. This relies as needed on what seem to be reasonable assumptions about these factors, but they are assumptions nonetheless. Finally, LLLTs had engaged only a handful of clients by the time of these interviews. Future studies will better answer whether LLLTs will increase access to justice for low-income populations by: comparing and contrasting the financial situations and backgrounds of clients who retain an LLLT versus those who decide against or cannot; assessing the outcomes of pro se litigants compared with those who get LLLT assistance; or even longitudinal comparisons between markets that have a scheme like the LLLT model and those that do not to see whether introducing the model appears to lower the price of legal services and close the civil justice gap in those markets over time.

Nonetheless, the data shared here offer a critical perspective. The goals, fears, and needs of the founding LLLT cohorts will shape the model’s first steps and thus how it unfolds.

II. THE LLLT MODEL IS NOT DESIGNED TO INCREASE ACCESS TO JUSTICE FOR LOW-INCOME LEGAL CONSUMERS

The belief that the LLLT model can lower the cost of legal services for low-income consumers rests on at least one of several major assumptions. First, by tackling simpler aspects of the law, LLLTs can differentiate the legal market and create legal service options that lead to lower, more competitive prices overall. Second, LLLTs will not simply work for law firms or in solo practice charging slightly lower prices than attorneys; rather, they will innovate legal service delivery models to

increase access for low-income clients. Further, LLLT licensing will attract talent who are committed to addressing the unmet civil legal needs of low-income populations. This Article challenges these assumptions and finds that the inability to accept them leaves reasonable doubt that the LLLT model will increase access to justice for low-income legal consumers.

A. The Continuing Structural Constraints of the Legal Market

The LLLT model stands poised to replicate the same principles that keep lawyers’ prices high, as identified by Gillian Hadfield. Markets that are not truly competitive artificially inflate prices because they reflect what consumers will pay rather than the value of the services. In law, this happens due to its complexity (its resource-intensive training; overhead costs; the unpredictability of the final cost; the tendency of parties to compete for greater relief; prices signaling lawyers’ competence); the state monopoly over legal professionals’ licensing and parties’ dispute resolution; and the unified nature of the profession. Similar logic applies to LLLTs. The model reimagines but does not ultimately alter the multi-variable nature of a legal action. The state still maintains a monopoly over the licensing of LLLTs as legal practitioners, and those practitioners must continue to work within the formal court system to establish enforceable agreements. And the nature of LLLTs’ work can still be characterized as unified, as LLLTs do not offer a skill set distinct from lawyers but one that is more limited in scope and subsumed within the type of services that lawyers already offer.

The model attempts to lower the complexity and price of legal services through offering simplified services for more narrowly tailored needs. It aims to do this by lowering the cost of training, promoting unbundled and limited scope services, and, at least theoretically, encouraging lower costs through more predictable flat-fee pricing schemes. However, as Hadfield points out, the educational debt that

77. See Chambliss, supra note 31, at 588–90, 597, 608 n.211; Robinson, supra note 11, at 4 n.4; Zorza & Udell, supra note 76, at 1271, 1275–76, 1279, 1283–86; Hon. Barbara Madsen, Chief Justice, Washington Supreme Court, The Promise and Challenges of Limited Licensing, Luncheon Keynote Address (Spring, 2014), in 65 S.C. L. REV. 533, 545 (2014) (“There are many creative ways to deliver services. Most states allow unbundled legal services. I see a hopeful note that our new lawyers will find new innovative ways to make the delivery of legal services more affordable.”).

78. See supra Part I, notes 60–66 and corresponding text; see also Crossland & Littlewood, supra note 41, at 620 (noting that LLLT students are “highly motivated . . . pioneers”).


80. Id.

lawyers carry into the profession plays only a small role in pricing. The ABA has also started to encourage attorneys to practice unbundled, limited scope services through revising its Model Rules of Professional Conduct to allow this when reasonable and with the client’s consent. And as LLLTs and Candidates reveal below, other components of the legal market—the cost of doing business; the unpredictability of legal services required to solve an issue; the nature of parties to compete for a more favorable outcome in opposition to one another; and the significance of colleagues’ and competitors’ prices in determining one’s own—will continue to complicate and inflate case prices. Accordingly, the allocation of LLLT efforts, like those of lawyers, will nonetheless skew towards those willing and able to pay higher prices for their services.

We see this reflected in LLLTs’ and Candidates’ responses about how they plan to price their services. Admittedly, LLLTs and Candidates often expressed doubt about how to price their services, particularly as they start out. Most planned to charge some if not all clients based on an hourly rate. Estimated hourly rates ranged from $40 to $175 per hour, with a median of about $100 per hour. Some also thought that they might charge flat fees, either as an option for certain cases or exclusively. Estimated flat fees ranged from $300 to $2,500 per case, with a median of about $750 per case. Assuming an average of 10 hours per case,
LLLTS would charge on average approximately $1,000 per case whether charging an hourly rate or flat fee.87

Figure 1 – $1,000 Anticipated Mean Total LLLT Cost Per Case88

87. See infra fig.1. If someone suggested they might use a mixed-pricing approach, potentially charging an hourly rate and/or a flat fee depending on the case (e.g., a flat fee for an uncontested divorce but hourly if a divorce involved children), this chart reflects the rate provided for each. Three respondents mentioned that they would try using a sliding scale, charging rates that vary based on clients’ incomes. See LLLT Interviews 001–014; LLLT Surveys 1–21.

88. Of the LLLTS and Candidates asked how much time they thought they would spend on each case, respondents most frequently indicated that they did not know or that the cases would vary too widely to estimate. See LLLT Surveys 1–21; LLLT Interviews 001–014. However, a recent report, for example, found that attorneys spend an average of 16.4 hours per pro bono case where they provide limited scope representation. See ABA STANDING COMM. ON PRO BONO & PUB. SERV. & THE CTR. FOR PRO BONO, SUPPORTING JUSTICE: A REPORT ON THE PRO BONO WORK OF AMERICA’S LAWYERS 6 (Apr. 2018), https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.authcheckdam.pdf [https://perma.cc/Y3RZ-N6LM]. Thus, assuming 10 hours per case with an LLLT provides a conservative and reasonable estimate.
At these rates, for those living paycheck-to-paycheck, even a couple days’ worth of LLLT assistance costs a significant amount of money. As one LLLT put it:

Personally, I would be trying to target the moderate means people. People like myself even. We’re certainly not poor in anyway and yet if I had to come up with $5,000 for a retainer I’d take on, oh geez. Let’s see where we can eke that out. It’s tough. That’s minimum. A family law case may be less, maybe $2,500. It depends, kids or no kids.89

The challenge to pay is especially true for someone whose financial situation hangs in the balance—someone going through a divorce, eviction, or health challenge. In other words, some of the very same people the LLLT model sets out to assist. As one LLLT put it:

I expect that most [clients] are probably going to be at or below the federal poverty level. Or, well, I shouldn’t say below. I imagine I’m probably going to get some lower or middle-class people who still can’t afford attorneys, but who could afford to pay something. And then the people who are at or around the federal poverty level—I imagine that they should be able to come up with the funds to pay for it. They can, with family members helping out, or by taking payments. . . . I mean, $500 is a lot to someone like that, but I think that with some help they could come up with that.90

In fact, assuming that potential clients would be willing and able to spend even half a paycheck on LLLT services, 100% of Washington’s population living at or below 125% of the federal poverty line and about 85% of those living at or below 200% of the federal poverty line still could not afford an LLLT.91 Even those who could afford it would need to find and engage those LLLTs charging a total cost at the low end of the spectrum.92 Those living paycheck to paycheck may not even be willing or able to spend that much of their paycheck on legal services. Further, as LLLTs discussed, the hours for a given case can vary widely.93 These models assume that each case takes ten hours, but some cases will take more and would further limit the ability of those earning such incomes to afford an LLLT, at least on an hourly basis. Based on these figures, the

89. LLLT Interview 013.
90. LLLT Interview 001.
91. See infra fig.2.
92. See infra fig.2.
93. See supra note 86.
LLLT model does not give us reason to believe that it will increase access to justice for low-income populations.

Figure 2 – No Households < 125% FPL and Limited Households < 200% FPL Afford an LLLT\textsuperscript{94}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure2.png}
\caption{Assuming that a household would be willing to put aside half of a bi-monthly paycheck to pay for legal assistance in a civil case, no individuals living under 125% of the federal poverty level could afford the estimated average cost of engaging an LLLT on a case. Using the same estimates, none of the households earning less than 200% of the federal poverty level could afford the median estimated cost of $1,000 to engage an LLLT on their case. Only the top percentage of households earning under 200% FPL could afford any LLLT services, bringing in at most an estimated $35,520 per year. Even so, these households would need to find an LLLT willing to take their case for about $740 total, which is on the low end of the estimated range of total cost for an LLLT to take the case.}
\end{figure}

These suggestions identify perhaps the primary challenge for the model: How low can legal fees go? Will any price above free ever close the civil justice gap? How can LLLTs afford to provide services sustainably at that price, or can they? These questions reflect the core inquiry in Gillian Hadfield’s classic analysis on the price of lawyers: Why

95. Figure 3 assumes that lawyers would charge $250 per hour for comparable services based on an informal survey of visitors to Nolo’s website. See Kathleen Michon, How Much Will My Divorce Cost and How Long Will It Take?, NOLO (last visited July 22, 2018), https://www.nolo.com/legal-encyclopedia/ctp/cost-of-divorce.html [https://perma.cc/8NNN-YJW4].
do lawyers cost so much?[^96] Similarly, here we ask: why will LLLTs still cost so much?

A central assumption of the LLLT model is that legal technicians can offer lower prices if they have less debt to pay off from their legal training. Adam Smith offers the reasoning behind this traditional economic explanation: “High wages in a profession are necessary to compensate an entrant when great expenses must be incurred for learning its trade.”[^97] As one LLLT hypothesized: “I think a lot of [the pricing] tracks back to the length and cost of the education. . . . I don’t know if it’s the key, but it’s a key certainly to why a legal technician can charge less than an attorney.”[^98]

Along this line of thinking, as the cost of law school has risen, so has debt upon graduation for so many lawyers. Because of that, graduates may seek high paying jobs or keep their prices on pace with their inflated debts (or both) in order to afford to pay back that kind of debt.[^99] In contrast, the average cost of an LLLT education is only $15,000 total. That number drops to around $3,000 for those with at least their associate’s degree who only need to complete the requisite law school coursework.[^100] Compared to the average cost of a juris doctor—upwards from $36,000 annually as a non-resident student at a public institution to $42,000 annually at a private institution[^101]—the difference could be significant enough to relax graduates’ drive towards well-paying firm jobs or their pressure to charge prices as high as attorneys.

Yet Hadfield’s analysis dispels a common myth: attorneys’ law school debt does not determine the cost of law. Other nuances shape legal market pricing. For example, because law is a credence good where the expert service provider also determines the buyer’s needs, like doctors and car mechanics, clients cannot easily assess upfront the extent or quality of the service they need.[^102] Often, neither can the professionals themselves.[^103] This unpredictability makes clients vulnerable to ballooning costs as the professional uncovers or even invents the total bill.[^104]

[^96]: See Hadfield, supra note 16, at 954.
[^97]: See id. at 964 (internal quotation and citations omitted).
[^98]: LLLT Interview 004.
[^100]: Interview with Crossland & Littlewood, supra note 35.
[^102]: See Hadfield, supra note 16, at 968.
[^103]: See id. at 969.
[^104]: See id. at 968–69.
good: you get what you pay for. Knowing this, lawyers often use prices to signal their expertise to consumers.\textsuperscript{105} They may also rely on prices or salaries to signal their expertise to themselves: professionals want to be paid what they see as a fair price for their services. Education aside, practicing law also incurs costs: malpractice insurance, research tool licensing, court costs, filing fees, and even the cost of doing business like office space, equipment, supplies, and utilities.\textsuperscript{106} These costs are in addition to the licensing barriers to entry that result in the monopoly that is, or has been, the legal profession.\textsuperscript{107}

We do not have reason to believe the LLLT model will break from this. Clients will still face uncertain needs and gamesmanship, perhaps especially in family law. LLLTs will still gauge their prices by looking up, down, and sideways to signal what they offer and where they fall in the hierarchy of legal services quality. LLLT services will still incur base costs to do business. Even though more people standing in line will get into the legal professional club, the LLLT licensing scheme overall perpetuates the profession’s traditional monopoly on legal services.

1. Parallel Market Structures

Uncertainty about what it will take for a lawyer to solve a legal issue drives up costs. Even for lawyers, it can be tough to tell whether a case will take ten hours, ten months, or ten years. As Hadfield notes, “Law is not merely complex. It is so complex that it is also highly ambiguous and unpredictable. The necessity and quality of legal services are not merely difficult for nonexperts to judge; they are also difficult for experts, even the expert providing the service, to judge. This magnifies the credence problem dramatically.”\textsuperscript{108} Procedural and substantive legal nuance do not alone comprise the complexity of law. Idiosyncrasies of the parties, lawyers, and judges—their “past experiences, personal values, time, cognitive biases and limitations, politics”—all contribute to the “human judgment and communication” that makes law come to life.\textsuperscript{109} Each case provides its own permutation. How the elements combine can lead to resolution, combustion, or something in between. Nowhere is this spectrum truer, perhaps, than family law.\textsuperscript{110} Sensitivities lead to unpredictability, which leaves clients vulnerable to skyrocketing costs as

\begin{itemize}
  \item \textsuperscript{105} See id. at 975.
  \item \textsuperscript{106} See id. at 957.
  \item \textsuperscript{107} See id. at 982.
  \item \textsuperscript{108} See id. at 969.
  \item \textsuperscript{109} See id. at 969–70.
  \item \textsuperscript{110} See Rebecca Aviel, \textit{Why Civil Gideon Won’t Fix Family Law}, 122 \textit{Yale L.J.} 2106, 2114–23 (2013) (explaining why providing attorneys to all family law litigants might not help, and might even hurt parties, in part by escalating dynamics and protracting problems into battles).
\end{itemize}
the case unfolds. Clients may not know whether to agree to pay for a service when they cannot know the full cost upfront; how to verify whether a charge is reasonable and appropriate for the quality of the service provided; or how to compare the quality of one person’s services to another, obfuscating the information needed for a truly competitive market. 111 This informational asymmetry leaves a client at the mercy of his lawyer’s pronouncement about the work and corresponding cost. 112

These uncertainties will persist with the LLLT model. While some LLLTs and Candidates plan to experiment using models that charge their clients flat fees, most plan to charge their clients on an hourly basis. 113

Figure 4 – LLLTs and Candidates Predominantly Anticipate Using Hourly Rates to Bill Clients 114

<table>
<thead>
<tr>
<th>Anticipated Fee Structures to Bill LLLT Clients</th>
<th>(n = 30, multiple response)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hourly rates</td>
<td>18</td>
</tr>
<tr>
<td>Flat rates</td>
<td>9</td>
</tr>
<tr>
<td>I don't know</td>
<td>3</td>
</tr>
</tbody>
</table>

Fig. 4: Of the 26 LLLTs and Candidates who answered this question, the majority anticipates using hourly rates to charge clients, though not necessarily mutually exclusive to flat rates. Some LLLTs plan to use both hourly and flat rates, depending on the case.

LLLTs and Candidates’ rationales for using hourly fees echo the concerns raised by Hadfield: uncertainty about what the case will entail and a corresponding fear on the part of the professionals that flat fees will not cover the time they will ultimately spend resolving the matter. Like lawyers, LLLTs struggle to estimate the resources a given case will require. Of the 23 LLLTs and Candidates asked to approximate how much time they thought they would spend working on each case, 15 either would

112. See id. at 968–69.
113. See supra fig.4.
114. Respondents could indicate that they intended to use both hourly and flat rates if they would consider using both, so this chart reflects multiple responses.
not venture an estimate or explained that it was too difficult to estimate because cases vary too widely.\textsuperscript{115} “Each client’s case—they’re so different,” one LLLT emphasized.\textsuperscript{116} Time spent on the case “would depend on how complex it is,” another explained.\textsuperscript{117} One Candidate added, “If I need to do research, it will take longer than if I do not . . . [and] if there are parenting issues, it will take longer than if there are no parenting issues.”\textsuperscript{118} Plus, clients’ expectations can evolve. One LLLT started off using flat fees but “[learn] . . . [that] people always want questions, they always have changes, they always have this, they always have that.” She decided to still offer a flat fee, but once the documents are completed, anything in addition “would have to be billed out at the hourly rate.”\textsuperscript{119}

The potential for a client’s matter to snowball is especially potent in family law, where the action often involves divorcing spouses or parties who otherwise exist in a state of personal tension. Tensions running high can run up legal bills.\textsuperscript{120} One LLLT explained that she would consider doing flat fees, but “[i]n general family law stuff doesn’t work like that. It’s so fluid. One day they agree and the next day they hate each other’s guts. I think it’s safer to keep everyone happy to generally do it on an hourly basis.”\textsuperscript{121} Another LLLT shared similar sentiments:

[W]here there’s going to be people that don’t agree, and then high-conflict people where everything is argued about, or there are accusations or domestic violence or that sort of thing, or people are not being forthcoming with their financial information so that you can’t really get things done outside of court, it can drag on. So, those are hard to gauge. Sometimes things go fine, and then, there’s something that one person will dig in their heels about and not go forward.\textsuperscript{122}

Another reiterated: “[S]o much of it is controlled by the opposing party.”\textsuperscript{123} As their experience indicates, despite LLLTs’ focus on simple cases, they and their clients will continue to face the challenge of correctly gauging the complexity of a case on its face, which will continue to make it hard to price out the full cost of the action at its start.

\begin{footnotes}
\begin{enumerate}
\item[\textsuperscript{115}] LLLT Interviews 001–014; LLLT Surveys 1–21.
\item[\textsuperscript{116}] LLLT Interview 012.
\item[\textsuperscript{117}] LLLT Interview 011.
\item[\textsuperscript{118}] LLLT Survey 2.
\item[\textsuperscript{119}] LLLT Interview 007.
\item[\textsuperscript{120}] See Aviel, supra note 110, at 2114–23.
\item[\textsuperscript{121}] LLLT Interview 003.
\item[\textsuperscript{122}] LLLT Interview 014.
\item[\textsuperscript{123}] LLLT Interview 002.
\end{enumerate}
\end{footnotes}
Similarly, those who hire LLLTs will still encounter the game of law. In an adversarial system, having a better lawyer means you could go home with more and lose less. Because there is almost no way to know in advance how the two lawyers will match up, a client always has the incentive to pay for the best lawyer she can afford to hedge her bets. Such one-upmanship will persist with LLLTs. Some matters may resolve quickly, like uncontested divorces. Yet if the above insights are any indication, many if not all cases run the risk of turning contentious, particularly in family law because of the very nature of the matters that parties bring to file. Many LLLTs and Candidates note this. As one LLLT quipped, “It’s really easy to get married and really hard to get divorced.” Not every case needs to be seen as a win or a loss; creative solutions may exist where both parties can feel like they are winning (or losing). Even so, the parties can win or lose assets to be divided, or the custody of a child. In those cases, stronger legal assistance can matter, especially in making sure that assets and time with children are not treated as mutually exclusive and not negotiated to the party’s disadvantage. Parties in any legal dispute can be tempted to lawyer up and pay for the best service they can get, even when relief only entails profits or reputation in a commercial dispute. Yet in family law, the outcome can affect parties’ life savings, the home they have made, and the children they have raised and loved. In other words, family law can entail some of the “assets” that parties value above all else—assets central to their identity. Even as LLLTs expand their reach to other areas of law, landlord-tenant or elder care, as the architects of the model have discussed, the topic areas still involve deeply personal matters. These can be parties in danger of losing their home or in need of resources to live out the end of their lives. With these kinds of dynamics, those who would consider hiring an LLLT for their civil case do not necessarily appear any less likely to possess a “winner takes all” mentality where they would be willing to pay for the best LLLT they can afford.

Hourly rates also compound the feeling that switching the source of legal assistance in the middle of a matter can be costly in terms of money,

---

125. See id. at 973–74.
126. See id. at 976.
127. LLLT Interviews 002, 003, 014.
128. LLLT Interviews 002.
129. WSBA FAQS, supra note 35; see also Holland, supra note 19, at 99 n.113 (citing Letter from POL Board to Washington State Supreme Court 2 (Jan. 7, 2008)); Interview with Crossland & Littlewood, supra note 35.
131. See id. at 973–75.
time, and energy. Clients and their counsel often get to know one another and develop a relationship as they work together. Lawyers invest in learning the case and develop rapport with opposing counsel. Clients invest time and energy explaining their case to their lawyer. Once a client hires a lawyer, she can start to feel like she would lose too much momentum if she decided to use another lawyer instead. In other words, the difficulty in seeing these investments as sunk costs can frustrate a client’s desire to work with someone else once she invests in working with a particular counselor or starts litigating. Knowing this and thus the low probability of losing a client’s business, a lawyer may take his time resolving the matter or invest less into the case, especially if he does not expect to work with the client again in a future case.

LLLT–client relationships may not differ in this sense. An LLLT still must get up to speed on her client’s case, and handing off a case to another LLLT or a lawyer would still entail transition costs. Lawyers or fellow LLLTs who receive the case may also be disinclined to pick up in the middle of a case for the same reasons. Even if the LLLT model presents an opportunity to unbundle services and assist clients on discrete tasks, those cases can still grow, complicate, and sprawl in a way that the client does not wish to start all over again in the middle of the case with another adviser. The model thus does not overcome the sunk-cost problem that can artificially inflate lawyers’ pricing.

LLLTs could try to keep overall costs lower simply because they are trained to tackle simpler issues. Because of that simplicity, LLLTs may be better equipped than lawyers to unbundle their services or charge flat fees, if only from a matter of perspective. Their clients may only need someone who knows how to fill out the right forms or draw up an appropriate agreement without delving into a drawn-out, complicated analysis applying ambiguous laws to ambiguous facts in a particular case.

132. See id. at 977.
133. See id.
134. See id.
135. See id.
136. See id. at 977–82.
137. See id. at 977–78.
138. A hand-off to an attorney may still be necessary in cases where the LLLT comes upon an issue outside of her scope that she must turn over to an attorney. See Crossland & Littlewood, supra note 21, at 617 (noting that the model exposes LLLTs to areas beyond their scope so that they recognize when an issue goes beyond their authority and they must refer their client to a lawyer).
139. See Zorza & Udell, supra note 76, at 1313.
140. Order for APR 28, supra note 14, at 1–2 (“[T]here are people who need only limited levels of assistance that can be provided by non-lawyers trained and overseen within the framework of the regulatory system developed by the Practice of Law Board. This assistance should be available and affordable. Our system of justice requires it.”); see also Madsen, supra note 77, at 545.
141. See Order for APR 28, supra note 14.
LLLTs can perhaps more naturally offer à la carte, unbundled services where they can more easily charge a set fee for a discrete task like filling out or reviewing a particular document that has to be filed. Some are already planning to use such a model:

When someone would come to you, you would figure out what the solution was, what the options were, advise them, find out what they wanted to do, show them a quote for the documents that they want prepared, and it would be by document rather than by hour per se. That’s what I’m expecting most LLLTs to do. A lot of us have already talked about that. I think it works well for the population it is serving. They’re looking to save money, they want to know exactly what it’s going to be.\(^{142}\)

In other words, the LLLT model may increase transparency of the cost of legal services through offering simpler services that lend themselves to flat fee pricing. The ability to charge flat fees could make LLLTs’ services more attractive to those who otherwise avoid lawyers because of the unknown total bill at the end. As one LLLT described:

I know that if I want to go hire somebody like me, I would want to know how much it was going to cost, as much as possible, upfront. And so, I tend to like the flat fee where they know, for this certain product, this is how much they’re going to have to pay.\(^{143}\)

The model could even make the legal market more competitive by allowing people to compare the costs for the same or similar services, or even potentially the quality of the service for the cost.

The simplicity, transparency, and ability to verify quality could go so far as to build trust and satisfaction with clients who might otherwise distrust the service that lawyers would tell them they need to pay for.\(^{144}\)

One LLLT received such feedback from a client:

I had a woman that just came in here just to have a parenting plan prepared. She had a hearing to go to, so I assisted her in preparing her parenting plan and explained to her how she needed to file it with the court and provide working papers and what to do at the hearing and what to expect at the hearing. And then I got an email from her just thanking me, and that they ended up accepting her parenting plan. So, she was happy with the services that I provided. I mean, that’s not

\(^{142}\) LLLT Interview 013.

\(^{143}\) LLLT Interview 014.

\(^{144}\) See id. at 969 ("Whether ethical constraints in fact substantially constrain lawyers from responding to the incentive to misrepresent the need for services or the quality or quantity of services performed is another matter. The low regard in which lawyers are popularly held suggests that many people do not believe lawyers are above fraudulent behavior. ‘Q: How can you tell when a lawyer is lying? A: His lips are moving.’").
something you hear a lot in the legal world. Most of the time, you’re just like, you know... “This cost me an arm and a leg” or whatever, but she was very satisfied.\textsuperscript{145}

Even so, the LLLTs and Candidates planning to use flat fees do not represent the majority. And some of those who do plan to use flat fees caution that they might use hourly rates when cases seem like they will, or do, become complex or fraught. As one LLLT quoted above revealed, even if she merely prepares a document for someone, people always have questions and want changes.\textsuperscript{146} Another said she planned to use a flat fee based on how long she thought it would take her to prepare paperwork for a given case but,

\[\text{[A flat fee] doesn’t include you calling me every other day, you know. “Well I talked to my wife and she’s decided this, and oh, I talked to her again and she’s changed her mind.” It’s like, that’s not part of the flat fee. Once you get a very indecisive person, it’s very difficult.}\]

She planned to troubleshoot the issue through client management: “I just kind of remind them, ‘Look, I’ve done the job that you’ve hired me to do. I’ve made the changes that you’ve asked me to make. At this point, if you want me to do any further additional work, you’ll have to pay my hourly rate.”\textsuperscript{147} Another planned to use flat fees to streamline her recordkeeping, but also admitted that she is under-billing at this point and thinks she is “not doing a really good job of evaluating how much work will be involved.”\textsuperscript{148} She added, “It’s so random.”\textsuperscript{149} Like the difficulties lawyers face in judging the value of their services, so, too, will LLLTs.\textsuperscript{150}

Still, nothing about the LLLT model changes the fundamental opacity of whether legal services make a difference in the first place.\textsuperscript{151} Legal outcomes are highly unpredictable, which makes it difficult to determine not only whether the person providing the service used a necessary and sufficient amount of time and effort to fulfill her duties to her client but also whether her client prevailed because of or despite her efforts.\textsuperscript{152} The addition of LLLTs into the market will allow for the comparison of their outcomes and costs with those of lawyers in an attempt to evaluate whether the extent and style of legal training has anything to

\textsuperscript{145} LLLT Interview 007.
\textsuperscript{146} Id.
\textsuperscript{147} Id.
\textsuperscript{148} LLLT Interview 004.
\textsuperscript{149} Id.
\textsuperscript{150} See Hadfield, supra note 16, at 969.
\textsuperscript{151} See id. at 969.
\textsuperscript{152} See id. at 970; Greiner & Pattanayak, supra note 6, at 2198.
do with the quality of services, at least by those measures. But even so, and certainly within the LLLT market, clients will still face the notorious difficulty of knowing that the quality of LLLTs’ services assuredly must differ but not knowing how to compare the quality and prices in order to make an informed decision about whether and who to hire. Accordingly, prices will still “be buffeted by beliefs based on signals of quality that are more or less spurious,” as with lawyers, and LLLTs will still enjoy a monopolistic advantage that allows them to charge the highest prices that clients would pay.

The LLLT model reflects the remaining pillars holding up the legal profession monopoly described by Hadfield. Artificial and natural barriers to entry will continue to limit the supply of legal professionals. Those wishing to become LLLTs must still invest non-trivial amounts of time and money into obtaining the requisite training before they can even take the LLLT bar exam. They must complete 3,000 practice hours supervised by an attorney—a requirement bar associations do not ask of lawyers who complete their juris doctor. Those who have decided to pursue their LLLT licensing must believe the requirements to be accomplishable or else they would not pursue the license. Even so, some candidates—especially those who did not come into the program as experienced paralegals—express doubts and frustration about the ability to achieve these prerequisites before taking the exam. If candidates who ultimately believe the requirements are feasible express this, then it is plausible that others who would consider completing the program, but do

---

154. See id. at 972.
155. See id. at 983–92.
156. However, the LLLT model requires arguably less strenuous obligations compared to the training to become a lawyer because the model requires candidates to take fewer, less expensive classes that can be completed part-time, and the LLLT bar exam does not cover the breadth and depth of an attorney bar exam. See Holland, supra note 19, at 117; Interview with Crossland & Littlewood, supra note 35.
157. See Nat’l Conference of Bar Exams & Am. Bar Ass’n Section of Legal Educ. & Admissions to the Bar, Comprehensive Guide to Bar Admission Requirements 2015 8–11 (Erica Moeser & Claire Huisman eds., 2015), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2015_comprehensive_guide_to_bar_admission_requirements.authcheckdam.pdf [https://perma.cc/MA77-EGKU]. Some states (California, New York, Maine, Vermont, Virginia, Washington, West Virginia, and Wyoming) deem attorney candidates eligible to take the bar exam with a minimum amount of “law office study,” sometimes in combination with legal coursework, even without completing a juris doctor degree. Some of these states require a similar or higher amount of practical experience in order to sit for the exam, sometimes three or four years instead of 3,000 hours (which works out to about 1.5 years if completed full-time). Id.
158. For instance, several LLLTs said that life was getting in the way of achieving their 3,000 practice hours as quickly as they would have hoped and expected. One even revealed that her law firm needed help with administrative tasks such that much of her time spent at the firm did not count towards her required 3,000 hours, so she had fallen behind. See LLLT Interviews 001–014.
not opt to pursue it, could be deterred by the requirements. Further, as of this writing, the LLLT program does not offer financial aid, so the opportunity is limited to those who can front the resources for the courses. As for the LLLT bar exam, though arguably less rigorous than the attorney bar exam, the test does not merely rubberstamp the credentials of those who have taken the courses. The exam means to ensure the quality of services provided, mimicking the function of the attorney bar exam and similarly preserving a smaller quota of those who can enter the market. In short, even with the arguably lower requirements for LLLTs to gain their license, the training and examination recreate the artificial barriers to entry encountered by aspiring lawyers. Besides, even as more lawyers have recently entered the market, their prices have gone up and jobs have gone down, which suggests that the profession’s artificial barriers to entry “are not at the root of the high cost of legal services.”

Natural barriers also persist. Hadfield argues that the limited number of opportunities to gain experience (i.e., trial experience) to make someone a top-notch lawyer, combined with a high standard for quality reasoning and analysis, creates a “naturally” limited supply of lawyers. Because of that, she concludes, free-market economics make lawyers a scarce resource, which goes “to the highest bidders.” As envisioned, the LLLT model makes quality legal assistance less scarce and aims to overcome the effect of scarcity on the price of legal assistance by taking on the legal issues of lower bidders—those otherwise left behind by lawyers catering to the highest bidders. However, as further discussed below, the LLLT model will not avoid recreating these dynamics. LLLTs will still serve the highest bidders among those who cannot afford a lawyer—the echelon just

159. The total cost of LLLT training totals about $15,000: $3,000 for the law school-based courses and the remainder for core classes at a local community college. Interview with Crossland & Littlewood, supra note 35. Candidates have been able to access loans if needed for community college courses but not for the law school-based courses because LLLTs-in-training do not matriculate to the law schools. This does not appear to have been much of an impediment to the first two cohorts, where only one respondent indicated that she sought and obtained a loan, while the rest paid for courses out of pocket. See LLLT Surveys 1–21; LLLT Interviews 001–014. Granted, the selection bias in that insight does not foreclose that loans would lower the barrier to entry for others interested in pursuing their licensing but for the lack of cash on hand to pay for the courses, which could even influence the diversity of LLLTs and Candidates and, potentially, how they want to help. See Hadfield, supra note 16, at 983–84; Vivek Maru, Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide, 31 YALE J. INT'L L. 427, 465 (2006).

160. Among those surveyed, four had taken the exam but did not pass. See LLLT Surveys 1–21.
162. See id. at 984.
163. See id.
164. See id. at 992.
165. See id.
166. See infra Section II.C.2.
below those who can afford a lawyer, who can still out-pay those with an even lower income. Unless they find work in the government or non-profit sector where public funding or other grants and donations could fund their work—which we do not have reason to believe will be the case generally\textsuperscript{167}—LLLTs still need to charge enough to bring in enough revenue to earn a living. At least some LLLTs have indicated that this might skew their clientele towards those who can afford to pay higher prices.\textsuperscript{168} As long as demand for LLLTs still exceeds their supply,\textsuperscript{169} LLLT services will be “consequently priced as high as can be.”\textsuperscript{170}

What’s more, the LLLT model does not touch the state’s monopoly over the coercive power to enforce dispute resolution. Issues that LLLTs will handle, whether divorces and custody plans, or evictions and social security benefits down the road, must still pass through the hands of the state in order to make them real and give them force.\textsuperscript{171} As purveyors of the law, lawyers have a monopoly on navigating this dispute resolution mechanism:\textsuperscript{172}

In light of its monopoly over coercive dispute resolution, the unified and importantly homogeneous nature of the legal profession takes on tremendous importance. The profession defines and reproduces itself. It establishes entry requirements that homogenize the reasoning processes and to some extent the values of its members—judges, lawyers, even many legislators.\textsuperscript{173}

\textsuperscript{167} See infra Section II.B.1.
\textsuperscript{168} See infra Section II.B.3.b.
\textsuperscript{169} This could change, but it looks like it will remain the case for the foreseeable future. According to the 2015 Civil Legal Needs Study, approximately 71.1% of low-income households reported at least one legal problem during the twelve months prior, with an average of 9.3 legal problems for households with at least one legal problem. Assuming that these figures apply to at least 500,000 households—assuming that the number of people living under 125% FPL held true from 2013, that each household has about 2.5 people, and that a less conservative estimate would include legal issues from households living between 125% and 200% FPL—then 355,500 low-income households would have experienced at least one legal issue in 2015, or a total of over 3,300,000 civil legal issues going off of the average of legal issues per household identified by the study. With 21 individuals in the first LLLT cohort and 32 in the second, assuming a 35% growth rate in enrollees each year, approximately 1,450 LLLT Candidates will have at least enrolled in the licensing scheme in the next ten years. See CIVIL LEGAL NEEDS STUDY 2015, supra note 13, at 11, 18. Even assuming that all of those Candidates would complete their licensing, each LLLT would need to handle more than 2,200 legal issues a year in order to meet the full demand according to these figures, which does not seem realistic given that LLLTs mostly expect to work on 30 or fewer cases per month. See LLLT Interviews 001–014; LLLT Surveys 1–21; infra fig.8. All of which is to say, demand for low-cost legal services looks like it will continue to outpace the supply of LLLT capacity for the foreseeable future.
\textsuperscript{170} See Hadfield, supra note 16, at 992.
\textsuperscript{171} See id.
\textsuperscript{172} See id.
\textsuperscript{173} See id. at 993.
LLLTs will now share in this power, but their responses about how they intend to practice shows that lawyers have made the LLLT model in their own image. LLLTs still rely on the state system (the forms, the courts, the resolutions) to assist their clients. Lawyers have designed the LLLT profession not only to preserve the quality of the practice of law but the manner in which legal professionals resolve disputes for their clients. Because of the complexity of legal processes and reasoning, “outsiders to the profession cannot easily assess their rights and obligations or the prospects for how their disputes will be resolved . . . .” Non-lawyers can offer alternative dispute resolution mechanisms—like the LLLT who wants to try to incorporate mediation into her practice—but they can only be so successful as long as they lack the “free-standing coercive power and the resulting dependence on the legal mechanism for binding resolution of disputes.” Like lawyers, LLLTs will therefore function of, by, and for the state. The model extends, rather than disrupts, the monopoly of the legal profession over such dispute resolution. This essentially replicates how the market values legal assistance. Accordingly, the LLLT model does not suggest that it will meaningfully mitigate the effect of the profession’s monopoly on the price of its services.

As we see, the LLLT model does not make a clean break from the structural components of the legal market that have led to the system’s pervasive inaccessibility. The complexity and uncertainty of the precise legal services required to solve a particular case; the adversarial system that incentivizes investing in and sticking with the same legal professional or team; the monopolistic barriers to entry of the profession; and the profession’s operating in service to the coercive power of the state—all proceed effectively uninterrupted with the LLLT model.

174. See Hadfield & Rhode, supra note 70, at 1222 (vesting responsibility of the LLLT scheme in the hands of a board comprised mostly of lawyers “has arguably led to the reproduction of the shortcomings of existing professional regulation—an overreliance on prescriptive rules, with little in the way of evidence regarding the relationship between requirements and outcomes” and leaves its development to those who see LLLTs as their competitors).
175. See Hadfield, supra note 16, at 992.
176. See id. at 994.
177. Some LLLTs spoke about integrating mediation into their practice either through their own mediation or partnering with mediators. See LLLT Interviews 001–014; LLLT Surveys 1–21.
2. Parallel Gauging

LLLTs and Candidates will also not price their services in a vacuum. They will look up, down, and sideways at the prices charged by lawyers, paralegals, legal assistants, and their fellow LLLTs in order to determine what a “fair” price looks like to customers and themselves. Doing so implies not only a price ceiling but a price floor above the rates that paralegals and legal assistants charge, meaning that LLLTs’ prices can only go so low.

To be clear, based on the research, LLLTs anticipate charging lower prices than lawyers. As one LLLT started to meet with potential clients, she found that these individuals sometimes pushed back on whether they might be able to obtain similar services from an attorney for about the same cost.179 In response, she would share that lawyers’ services might cost $200 for the consultation and $250 per hour after that and, in so comparing, could gain a client while capping what she could charge.180 Another worked as a paralegal at a firm that deals mostly with wealthy clientele, where even the less wealthy individuals must put down a $5,000 retainers.181 “[P]eople can’t afford that,” she explained. “You tell them it’s going to be $500 to do all of your divorce papers and teach you on how to file and how to serve and how to present yourself in court—$500 looks pretty good.”182 Another set her pricing parameters as “[s]omething between the court facilitator reviewing your forms and paying a couple hundred dollars an hour for [an] attorney.”183 In other words, at least some LLLTs plan to charge less than lawyers in order to gain clients by leveraging the difference in price.

Other LLLTs plan to charge less than lawyers because they did not think that they would offer the same level of services. “[T]he reason why I can charge less is because I can’t do everything an attorney can do,” one explained.184 To another, “[t]he ‘access to justice’ is that there’s going to be somebody who can give legal advice on certain topics in . . . family law, and can advise you, can draft pleadings for you, can fill certain roles, and it will be less than the hourly rate of an attorney, necessarily.”185 Yet she went on to elaborate that the pricing is a two-way street. She anticipated fielding questions about why someone would not just hire an attorney and why a prospective client should use her instead. To this, she planned to

179. See LLLT Interview 007.
180. See id.
181. See LLLT Interview 001.
182. See id.
183. See LLLT Interview 006.
184. See LLLT Interview 004.
185. See LLLT Interview 006.
respond, essentially, that LLLTs offer a different type and level of service more suited to the pricing: “[I]t’s kind of inherent in the fact that the hourly rate will be less than an attorney’s. Basically, you get what you pay for.”

Yet as much as LLLTs price their services based on lawyers’ fees, they will also base their prices on rates charged by paralegals and legal assistants. For some, this will happen because they previously worked in one of these roles and pursued their legal technician licensing to raise their pay. As one LLLT explained,

I remember [in class] we had to look at this issue of pricing. I thought ultimately it’s going to be guided by the market. I’m going to be looking at what the people who are already licensed are charging, or are able to charge. The tricky part is I think that something like $100–$125 an hour meets the requirement of access to justice affordable representation for people, and yet I’m billed out at more than that as a paralegal and have been for several years. I’m stuck on that. You don’t want to pay more for a paralegal.

Another cautioned her fellow LLLTs not to undervalue their services based on what they might have been paid before as a paralegal, when they might have been underpaid in that role:

I will probably charge around $100 an hour . . . . The thing is, like I said, some paralegals are paid, as paralegals, very low, and some very high. They might see themselves, if they’ve been paid low in the past, they might not realize their value if that makes any sense . . . . When I moved here, I was paid $15.50 an hour. That’s not going to cut it.

Another confirmed: “[M]y hourly rate of paralegal is, you know, pretty high. I mean, I know I think there was some article that we [LLLTs] might be charging $80 an hour. Well, that’s not very, I mean—that’s lower than my legal assistant rate, which is my low rate.” Those coming from paralegal and legal assistant roles did not express a willingness to charge a lower rate than what they previously charged. Others with similar levels of experience and pay from roles outside of the legal profession may have similar reservations about charging lower rates. In this sense, the model may encounter a price ceiling and floor.

LLLTs themselves will further influence, or at least solidify, the rates charged by their fellow LLLTs. One did not see her rates fluctuating anytime soon but expected to “confirm in time maybe what other offices

---

186. See id.
187. See LLLT Interview 006.
188. See LLLT Interview 013.
189. See LLLT Interview 011. LLLTs and Candidates may also gauge their expected salaries on what they would be able to make doing something non-legal, like for those who are working in another field and are considering becoming an LLLT as a career change.
Another gauged her paralegal rates based in part on what paralegals at other firms charged. “[W]e would call around to find out what other paralegals were billing out at.” Now an LLLT, she and her firm decided to keep her rates the same for now at $110 per hour. If past actions are any indication of future actions, perhaps the firm will pursue a parallel approach to pricing her legal technician services based on what her LLLT peers charge.

LLLTs are not only looking to charge prices below those of lawyers but also to maintain their prices on par with their peers and above those set by paralegals and legal assistants. Consequently, the LLLT model will not simply drive prices lower as the supply of legal professionals increases. Rather, as LLLTs indicate, their prices will hover above the rates earned by those already working in the legal profession supporting lawyers. Therefore, the model suggests that LLLTs’ prices will not necessarily race to the bottom as they encounter forces that also influence them to rise to the top.

3. Parallel Costs

The cost of doing business likewise limits how low LLLT costs can go. As with lawyers, LLLTs or their employers need to pay for business expenses such as malpractice insurance, research tool licensing, and basics like office space, equipment, and supplies.

Some LLLTs aspire to lower costs through lean business models that minimize their expenses and accordingly lower the prices they need to charge to cover costs and sustain their business. One LLLT explained that she planned to work from home so that she could charge lower prices in the solo practice she hoped to start: “I don’t want overhead. I don’t intend to charge my clients very much, the same like an attorney. My attorneys [where I work now] charge $300 an hour. I’m not going to charge anywhere near that. And so, I don’t want to pay for an office, and I don’t want to commute every day. So I would work from home, and I’d meet my clients at either public facilities like a Starbucks or a library, or I would do the rental office for an hour.” At the same time, she calculated: “[I]f I’m making over double my [current] hourly rates, and I don’t have any overhead, or very minimal overhead, I should sort of double my yearly salary . . . .”

190. See LLLT Interview 007.
191. See id.
192. See id.
194. See LLLT Interview 005.
195. See id.
More commonly, LLLTs recognized that they would need to charge enough to cover overhead. For example, one LLLT who planned to practice on her own but team up with law firms to share office space started to realize that she would still need to pay for other expenses to get her practice off the ground:

I have started at $150 an hour. That helps cover my expenses. Eventually I’m going to have to rent my space that I have now. Right now, I’m still staying employed. I hope to become part-time employed in my office suite. Then at that time I will be required to pay part of the rent for my office. Then there’s lots of software that you need. I didn’t realize. Those, you have to have subscriptions for that. Right now, I don’t have a full business plan, so I just kind of went with that [price].196

One LLLT believed that the effect of overhead on LLLTs’ prices would especially impact those planning to fly solo:

[P]eople who are in a firm already as a paralegal, and they are just going to stay in that role and also do LLLT work, they have it sweet. They don’t have to establish infrastructure. They don’t have to pay for liability insurance. They’re not putting themselves out. There’s no risk . . . .197

One wanted to charge about $100 to $125 per hour in order to make her services “meet[] the requirement of access to justice affordable representation for people,” but also grappled with the fact that “there’s going to be very unfortunately the overhead cost of putting out your own shingle. You’ve got to factor that in.”198 She did not yet know how to price her services to account for this: “I’m a little unsure of that discrepancy between the cost of the paralegal and the cost of the LLLT. Hopefully the seven people who are already licensed, I think it is now, will be able to guide the rest of us on what the fee structuring looks like.”199 Others shared in her uncertainty—and optimism. One LLLT expected to keep her costs lean and double her salary, but also noted, “I have not really done the math . . . .”200 Another confessed: “Obviously, I don’t have a specific idea of the costs because I don’t really know the space. It’s just some unknowns, which is a bit scary.”201

196. See LLLT Interview 003.
197. See LLLT Interview 006.
198. See id.
199. See id.
200. See LLLT Interview 005.
201. See LLLT Interview 006.
At least some LLLTs acknowledge that the overhead costs will make it challenging for LLLTs to charge lower rates than lawyers. As one LLLT put it:

One of the criticisms, which we have yet to really answer because this is so new, is that the LLLTs are going to have to charge close to what a lawyer charges to pay their overhead. So, it's not really a program that's going to help the low to middle income people.202

If LLLTs cannot reduce their costs and attendant prices, they will struggle to close the justice gap for those with lower incomes. As the same LLLT summed up:

I don’t think that LLLTs are going to help with those people who just cannot afford to pay any fees at all. They’re very poor. Because there are costs to having an LLLT practice and an LLLT might be able to take on one or two pro bono cases a year, but they really need to get paid enough to pay the bills and actually make some money, make a living. So, that part of it will be interesting to see how that works out for people if they’re able to make a living based on the idea of what their fees are going to be.203

In other words, in the limbo of legal service costs, LLLTs and Candidates indicate that their prices can only go so low. They may be able to experiment with leaner models and shave costs such that they can charge prices that help those who cannot afford to pay for lawyers but can afford to pay for services just below lawyers’ prices. Yet none articulated a strategy or confidence that she could cut costs so significantly that she could drive overhead costs to a nominal figure. In this sense, the base costs of doing business will prove largely constant, which will prevent LLLTs from reducing their prices so significantly that those least able to pay will now be able to afford help.

B. The Perpetuation of Traditional Service Delivery Models

Rather than creating new mixed-sector or other innovative legal service delivery models, LLLTs and Candidates stand to replicate existing models and their corresponding challenges. We see this in their responses about where and how they intend to work as LLLTs. As one LLLT put it:

I think a lot of us will use this license in a law firm. I think there are some people who will use it independently. As far as how successful

202. See LLLT Interview 008.
203. See id.
will it be? I think there’s a need out there. I don’t really know how it’s going to work out, we’ll just have to wait and see.204

That LLLT’s conception of the future of the LLLT model did not include the possibility of LLLTs working in the non-profit or government sectors, or for a private company besides a law firm or any other more disruptive model. By and large, LLLTs and Candidates do not plan to pursue public sector work at non-profits or with government offices, including courthouses.205 Nor do they plan to seek work with for-profit companies outside of the law that might be able to hire them and improve private legal service delivery models such that clients can pay much lower costs.206 Instead, they primarily plan to pursue work based at law firms or open their own solo practices.

By pursuing private work through models akin to those already employed by lawyers, LLLTs will similarly need to charge enough to turn a profit and make a living. Accordingly, their rates can only go so low.207

204. See LLLT Interview 013.
205. See infra fig.5.
206. See infra fig.5.
207. Respondents could indicate that they intended to work in any of these ways, so Figure 5 reflects multiple responses.
Figure 5 – LLLTs and Candidates Mostly Plan to Work at a Law Firm or Start Their Own Practice

<table>
<thead>
<tr>
<th>Practice Settings Where LLLTs and Candidates Plan to Pursue Work (n = 36, Multiple Responses)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting a Practice: 72%</td>
</tr>
<tr>
<td>Law Firm (Total): 72%</td>
</tr>
<tr>
<td>Non-Profit Organization: 19%</td>
</tr>
<tr>
<td>Courthouse: 17%</td>
</tr>
<tr>
<td>Government Office: 11%</td>
</tr>
<tr>
<td>Have Not Given Much Thought: 3%</td>
</tr>
<tr>
<td>Business Outside of Legal Field: 3%</td>
</tr>
<tr>
<td>Don't Know: 3%</td>
</tr>
</tbody>
</table>

Fig. 5: When asked about all of the settings in which LLLTs and Candidates intended to practice, respondents most frequently indicated that they planned to work at a law firm or start their own practice. Some respondents also said they thought they would work at a non-profit organization, courthouse, or other government office. Almost none thought they would work as an LLLT at a business outside of the legal field.
1. Limited Pursuit of Public Sector Work

LLLTs and Candidates mostly do not plan to pursue work in the public sector. Of the 36 study participants, 10 anticipate that they will work at a non-profit organization, government office, or courthouse. Of those individuals, only 2 plan to focus on public sector work exclusively without also considering work at a law firm or her own practice.

Perhaps this hesitation can best be summed up by one LLLT who said that she had talked to a lot of people about potentially engaging her

---

208. Although “public sector” sometimes refers only to working for a governmental entity, this Article uses the term to refer both to that and working for a non-profit organization, like a legal aid society, to refer to public service more generally.

209. See supra fig.6.
LLLT services. “Most of them don’t have any money,” so “they’re looking for legal services that are free for the most part.” She explained: “Right now I can’t afford to be doing a lot of pro bono work until I get things up and off the ground . . . .” She “think[s] working for a non-profit firm helping people with [her] license would be great,” but added, “I don’t know that it would bring in the kind of income I might want and it might require more of my time for the amount of income I would get.” For her, helping those who do not think they can afford to pay for legal services would be the icing on her cake, but for the same reason she does not expect that such work can serve as her bread and butter—she thinks clients who approach non-profits typically cannot afford to pay the kind of fees that would sustain the income she seeks, let alone enable her to work what she believed to be manageable hours.

The question alone assumes that positions at non-profits would be available to LLLTs, but this may not be the case. Because such public sector work looks to provide services to those who otherwise could not afford them, clients’ fees alone generally cannot fund the work. Such work often relies on public or private grants. In fact, an LLLT who planned to pursue work at a non-profit and a courthouse was also coordinating a volunteer lawyer program part-time through the mercy of grant funding. She said that the attorney’s services would be free for clients but admitted that she did not know if the model would work long-term because her work was premised on a grant that funded her time.

Her circumstances highlight the ongoing challenge in providing legal services to those who cannot afford to pay: there is an inherent catch-22, if not contradiction, in expecting that services for clients who cannot afford fees sufficient to cover the costs of the work can fund the work through a revenue stream without relying on grants in whole or in part. The LLLT model does not solve this catch-22. Even if LLLTs charge lower rates to align with the more basic legal skills they offer, the segment of the population with unmet civil needs who cannot afford to cover the costs of a legal service provider will still need to pursue services that are funded at least in part some other way—through grants, donations, or another source. Unless the public sector opportunities that might become available to LLLTs can conserve and spread their funding further by paying LLLTs lower incomes—which does not appear likely when LLLTs and Candidates largely do not expect to take a major pay cut in their work.

210. See LLLT Interview 010.
211. See id.
212. See id.
213. See LLLT Interview 004.
214. See id.
and would not necessarily make that much less money than public interest lawyers as it is—\footnote{Most LLLTs and Candidates planned to make more money by becoming LLLTs than they make now, likely a moderate income between $47,700 and $95,400 a year. See infra fig. 7; infra fig. 10; LLLT Interviews 001–014; LLLT Surveys 1–21. The median salary for a legal services attorney with about eleven to fifteen years of experience is roughly $65,000. See NALP’s Public Sector & Public Interest Salary Report Turns Ten?, NALP BULLETIN (July 2014), http://www.nalp.org/july-1-4-research [https://perma.cc/8X7E-QYV8].}—the challenge in public sector work appears less about finding legal service providers who are willing to work for less and more so in obtaining the grants or other funding that would allow government offices or non-profits to hire more individuals who can in turn provide services to more clients. Unless public sector opportunities can hire LLLTs at a salary low enough to allow them to hire additional staff members on their current budgets, the LLLT model will not go far in solving the conundrum facing the non-profits and government entities that try to serve those with unmet civil legal needs: finding the funding to cover the cost of the services provided to those who cannot afford to cover those costs themselves. Another LLLT identified this challenge:

I don't know if there’s a way that you can do a non-profit [LLLT model]. . . . I know that there are attorneys that do those type of services. So, I think that if someone wanted to investigate that avenue, and take it upon themselves to see what kind of services that [she] could provide at a reduced rate. . . . I mean attorneys could probably bill less if they wanted to, right?\footnote{See LLLT Interview 007.}

She simply did not know how funding would work to sustain LLLTs’ not-for-profit work. It is hard to blame her. The dilemma of how to pay for services for those who cannot otherwise afford them has stumped the lawyers and public servants who have come before LLLTs. The model alone does not give us reason to believe that LLLTs will seek out or find work in a way that will solve that dilemma and help close the justice gap for low-income populations.

2. Limited Pursuit of Private Sector Work Outside of Law Firms

LLLTs and Candidates also largely do not plan to pursue work with businesses outside of the legal field. The LLLT model opens up the opportunity for private entities outside of the legal profession to move into the space in new ways. Specifically, LLLTs have such an opportunity because no rule bars them from sharing profits from legal practice with those outside of the legal profession, unlike lawyers guided by Model Rule
of Professional Conduct 5.4. Lawyers may not otherwise form partnerships with non-lawyers “if any of the activities of the partnership consist of the practice of law.” The Rule precludes a lawyer from practicing with or forming a professional corporation or association authorized to practice law for profit if a non-lawyer “owns any interest therein . . . ; is a corporate director or officer thereof . . . ; [or] has the right to direct or control the professional judgment of a lawyer.” Translated into practice, investors and businesses outside of law have not been able to team up with law firms or other legal service providers to infuse capital, develop technology, or otherwise compete in the space in ways that are thought to help innovate an industry. Yet of the 36 participants, only 1 included such work as a possibility.

APR 28, however, adds to the momentum to deregulate the legal profession. APR 28 does not clearly prohibit LLLTs from sharing profits with fellow non-lawyers. In other words, LLLTs could partner with investors or major corporations in industries outside of the legal profession, which could also create a whole new norm for delivering legal services. For instance, a company like Wal-Mart could hire LLLTs to provide legal services in their stores, like “Minute Clinics” in pharmacies, increasing legal service providers’ visibility and perhaps eliminating much of the overhead that they would otherwise need to provide if they hung their own shingles. Such a model could respond more quickly to the market than law firms do, with access to capital and management by professional business managers. The model could turn LLLT services into a volume game by making legal services more conveniently available at a low cost. The concept mimics the idea behind the success of advice centers in the United Kingdom or South Africa by decreasing the barrier for consumers to use the service by making them more conveniently available to find and access—a common reason that

217. See MODEL RULES OF PROF’L CONDUCT 5.4 (AM. BAR ASS’N 2016) (a “lawyer or law firm shall not share legal fees with a nonlawyer,” save several exceptions for lawyers’ estates and law firm support staff); Chambliss, supra note 31, at 590.
218. MODEL RULES OF PROF’L CONDUCT 5.4(d).
220. See supra fig.5.
221. See APR 28.
222. Chambliss, supra note 31, at 590; Robinson, supra note 11, at 11–12, 44.
223. Perlman, supra note 44, at 110 (internal citation omitted).
224. See Robinson, supra note 11, at 4, 11–12.
225. See Moorhead et al., supra note 44, at 772–73, 75.
226. Maru, supra note 159, at 466.
people in Washington have given for not obtaining legal services.\footnote{227. \textit{CIVIL LEGAL NEEDS STUDY} 2003, \textit{supra} note 12, at 8–9 (reporting that some low-income respondents did not know where to turn for legal assistance and/or had less success in or access to online resources).} Similarly, LLLTs could work with businesses that are starting to provide legal services online so that physical access becomes even less of an issue, considering that many in Washington report that there are not enough lawyers easily and conspicuously available to meet their needs.\footnote{228. \textit{Id.}}

Initiatives like APR 28 could disrupt how legal professionals provide services and accordingly make legal assistance more widely available for those with lower incomes. LLLTs teaming up with other non-lawyers could innovate legal service delivery models that save costs, broaden access to legal assistance physically and psychologically, and inspire critical thought about the role that advocates play in counseling clients. For example, are humans actually necessary to advise people on their civil legal needs, or can artificially intelligent technology provide the same or better counsel? If counsel adds value through human touch—simply making clients feel heard, artfully negotiating with opposing counsel, or respectfully representing the matter to a court—should LLLT models or like initiatives take this into account? Is legal counsel from a human source a necessity or a luxury good? Could non-lawyer innovations offer solutions to provide the legal assistance that is, in fact, necessary?

In any case, with only one Candidate expressing an interest in potentially pursuing work with a business outside of the legal field, the initial LLLT cohorts do not appear anxious to leverage these possibilities to decrease costs to the point that services are widely affordable for those with a low income.\footnote{229. Another limitation on this analysis comes from its focus on the purported plans of LLLTs and Candidates, without considering the plans of non-law businesses or investors who may have an interest in pursuing these opportunities. Given this, such initiatives may still arise, but based on LLLTs’ and Candidates’ responses, it appears that businesses or investors rather than the initial cohorts of LLLTs would have to take lead.}

3. Substantial Pursuit of Private Sector Work in Law Firms and in Solo Practice

LLLTs and Candidates appear primed to pursue work for law firms or in solo practice. No fewer than 33 of the 36 respondents planned to either work for a firm or start her own LLLT practice, with some still planning to work with law firms for space, referrals, or other resources even when they are on their own.\footnote{230. \textit{See supra} fig.5; \textit{supra} fig.6; \textit{see, e.g.}, LLLT Interview 003; LLLT Interview 014.} Of those individuals, the majority—24 participants—anticipated the possibility of working for a law firm, 4 of
whom expected to work exclusively for a firm.231 The vast majority—30 participants—contemplated opening up their own solo practice.232 In contrast, of those planning to work for a law firm, only 4 also planned to work for a public sector entity (non-profit, government office, or courthouse) among other options.233

a. Work at Law Firms

The previous Section discussed in detail why the LLLT model will mimic rather than alter the pricing issues that lawyers face. That the majority of LLLTs and Candidates indicate they will work at a law firm as one of their options provides further evidence of this. Even if LLLTs will charge lower prices than lawyers at their firms, they will still have to charge enough to make it worth the firms’ while.

LLLTs and Candidates acknowledge this. One LLLT explained that the point of the LLLT model is “really to allow poor people to get services,” and “not to make your firm more money,” but at the same time she noted that “that can be one of the options—existing firms to hire legal technicians and offer that service.”234 As mentioned earlier, charging $500 to less wealthy clientele to do all of their divorce papers might “look[] pretty good,” but that might still require these clients to ask for help from family or by paying in installments.235

For LLLTs working at firms, her comments suggest at least two hurdles in helping low-income consumers. First, law firms set rates high enough to make a case profitable. Let’s say a firm charges $1,000 total to help with a family law case—a conservative estimate given that the median total that LLLTs plan to charge hovers around $1,000.236 One thousand dollars is probably a lot of money to someone living under 200% of the federal poverty line.237 Even if a client hired an LLLT at a firm to take their case at such a rate, if the client is supposed to pay with the help of family or a payment plan then the LLLT and firm must rely on tenuous strategies to get paid. Such clients may default on their ability to pay, and even if they can find the funds to pay the firm, they might take on debt to

231. See supra fig.5; supra fig.6.
232. See supra fig.5; supra fig.6. Of those participants, in addition to those also anticipating law firm work, 4 expected to pursue work with a not-for-profit entity (non-profit, government office, or courthouse), 4 expected exclusively to fly solo, and 1 expected to build upon the paralegal practice she currently has by freelancing her LLLT work for several attorneys. For more on the implications of LLLTs’ solo practice, see infra Section III.B.3.b.
233. See supra fig.5; supra fig.6.
234. See LLLT Interview 001.
235. See id.
236. See supra fig.1.
237. See supra fig.2.
another source to do so. If they would have a difficult time making payments to the firm, borrowing the money from another source does not necessarily solve their ability to afford the services (unless the source can either provide a lower interest rate or does not ultimately require that person to pay back the loan in its entirety). Either way, the LLLT rate at the firm may make legal services *more* affordable relative to lawyers, but that does not make services *affordable* to those for whom $500 is a lot of money—likely including many of those in the low-income populations identified by the Civil Legal Needs studies.\footnote{See supra fig. 2. The 2003 study calls itself “the most comprehensive effort to date to determine the nature and scope of the civil legal problems of low-income people in Washington State” and focuses on those living at or below 125% of the Federal Poverty Level. See CIVIL LEGAL NEEDS STUDY 2003, supra note 12, at 8, 17. Likewise, the 2015 report studies “the civil legal needs of low-income residents of Washington State,” this time targeting those with household incomes at or below 200% of the Federal Poverty Level. See CIVIL LEGAL NEEDS STUDY 2015, supra note 13, at 11. Figure 2 supports this statement under either definition.}

If a potential client could not afford such an amount for their legal questions, of course, this calls into question whether law firms will find it worth their while to let LLLTs serve low-income consumers at a reduced fee. One LLLT, who started at a firm as a paralegal and transitioned to LLLT work after she obtained her license, explained that the hourly rate she planned to charge might fluctuate based on the firm’s needs: “The concern is just seeing how the year goes and how it benefits the firm itself, you know what I mean, the costs and whatnot.”\footnote{See LLLT Interview 007.} Even with a firm open to supporting its employee’s shift from paralegal to LLLT, the opportunity is still conditioned upon how it benefits the firm. If her case is any indication, law firms may be open to experimenting with the new clientele and revenue that LLLTs can bring in, but firms still must run their business as a business and keep an eye on the bottom line. Reasonably, this would mean only taking on the cases of those who can afford to pay fees high enough to employ an LLLT while sustaining profit margins wide enough to justify their time.

To this end, another LLLT recognized the need for her firm to charge sustainably high prices even when all she wanted to do was help people at a reduced rate:

> Because I work for this firm, I’m dictated by the firm policies and things like that, so I would have to ask the attorney [to lower prices]. I’m one that goes, “Can we lower the fees, so this person can afford it?” or, “Can we do it for this much for this?” I would try to work with the client.\footnote{See LLLT Interview 012.}
She wanted to start her own practice after working with the firm for a while as an LLLT but admitted that working for a firm could help her keep an eye on the bottom line. “If I had my own office, I don’t know if I would be very good, because I would want to do everything for free.”

Even for someone so motivated to adjust her prices in order to make her services accessible to potential clients regardless of their financial background, she acknowledges that private practice needs to charge high enough rates to stay afloat.

Accepting this, there is no reason to think that LLLTs’ work at law firms would stretch to cover low-income clients, save for taking on a few pro bono cases where they can.

b. Work in Solo Practice

Similar challenges beset those who intend to open their own practice. As discussed previously, LLLTs will still need to charge enough to cover the overhead for their practices. Like the LLLT who “would want to do everything for free” at her firm, the same pricing considerations apply for those who wish they could help individuals who do not have the resources to pay for legal assistance: “I have the kind of personality that wants to just give it away. Obviously, I can’t do that. I can’t pay my business expenses and not have some income as well.”

If even the LLLTs whose hearts bleed say that helping people is “the fun part” and that they will still need to charge rates sufficient to cover costs, the model does not give much hope that those who plan to open their own practice—the majority of the initial cohorts—will be able to charge prices low enough to serve low-income clients.

241. See id.
242. See supra Section II.A (specifically, LLLTs acknowledging that overhead costs will challenge LLLTs’ ability to charge rates lower than lawyers); LLLT Interview 008 (“One of the criticisms, which we have yet to really answer because this is so new, is that the LLLTs are going to have to charge close to what a lawyer charges to pay their overhead. So, it’s not really a program that’s going to help the low to middle income people. And so, I think that’s yet to be determined, because nobody’s done it before. . . . I don’t think that LLLTs are going to help with those people who just cannot afford to pay any fees at all. They’re very poor.”); see also LLLT Interview 008, supra note 203 and corresponding quote.
243. See LLLT Interview 009; see also LLLT Interview 010; supra note 211 and corresponding text.
244. See LLLT Interview 007.
Moreover, at least some LLLTs expect to earn a decent or better living through developing their own practice. One projected that she would have no trouble covering the taxes incurred for her practice because “given the amount that I anticipate making . . . I’ll make a decent living. I know that.”\footnote{See LLLT Interview 001.} Another acknowledged:

I don’t see this as something that I would become rich off of, but I would certainly be able to have a comfortable life because, as a paralegal, I have a decent life, you know what I mean? . . . I would hope that I would continue to maintain the lifestyle I have now.\footnote{See LLLT Interview 007.}

What it means to make a “decent living” and maintain “a comfortable life” vary widely, but at least for these individuals, it suggests earning a median income of about $60,000 a year and perhaps a high annual income of $95,000 or more.\footnote{See infra fig.7.} Such expectations do not suggest that LLLTs opening their own practice could afford to take on very many low-income clients.

Low-income clients may thus fall by the wayside. As one LLLT put it, “[C]learly, there are lots of people who need help and don’t have any money. But we also can’t give our services away when we have overhead and insurance to pay for, and we need to feed ourselves.”\footnote{See LLLT Interview 002.} She thought that she would probably serve clients on the lower end of the financial spectrum through “low bono work,” where LLLTs would “take on a certain amount of cases at a lower rate.”\footnote{See id.} LLLTs and Candidates have been encouraged through their training to pursue pro bono and low bono work.\footnote{See id.} However, as this LLLT pointed out: “[I]f someone truly doesn’t have any money, they’re going to have a hard time affording any kind of legal services, which I know this program is hoping to remedy. I’m not sure exactly how they’re going to meet the needs of people with absolutely no money.”\footnote{See id.}

To open their own practice, LLLTs and Candidates recognize that they only have so many hours in the day. As discussed above, some express skepticism at using flat fee structures because cases risk becoming blooming onions where the number of hours starts to multiply as the legal or interpersonal complexity grows unwieldy.\footnote{See supra Section II.A.1.} Most of those who anticipate starting a practice at some point in their LLLT career indicate
that they expect to make a moderate income by federal poverty guideline standards (somewhere between $47,700 and $95,400 per year for a household of four). A little more than half plan to serve somewhere between 1 to 15 clients per month, while the others expect to serve more than 15 clients monthly.

Figure 7 – Most LLLTs and Candidates Expect to Earn At Least a Moderate Income

![Bar chart showing earnings expectations]

**How Much LLLTs and Candidates Think They Will Earn**

(n = 18, single responses*)

<table>
<thead>
<tr>
<th>Less than $23,340 / year</th>
<th>$23,340 to $47,699 / year</th>
<th>$47,700 to $95,400 / year</th>
<th>More than $95,400 / year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>2</td>
<td>12</td>
<td>2</td>
</tr>
</tbody>
</table>

Fig. 7: When asked how much they planned to earn as LLLTs, of those who responded, LLLTs and Candidates most often reported that they thought they would make at least $47,700 per year, which would be enough to sustain a moderate-income household (over 200% FPL) for a household of four according to the 2014 federal poverty guidelines.

Note: Many responders did not have an estimate for future earning, with 16 responding saying they don’t know, or not providing a response.

253. See CIVIL LEGAL NEEDS STUDY 2015, supra note 13, at 11.
Accordingly, on the low end of the spectrum, LLLTs and Candidates most often expect that they will make roughly $3,975 per month, which would require them to charge each client about $265, assuming they serve and close 15 client cases per month. For those with a low income, of course, $265 can still be a lot of money (or even insurmountable), even if the rate is reasonable compared to lawyers’ fees.254 But this calculation also assumes that all fees go to the LLLTs income and that her practice incurs zero costs, which will not be the case. Practically speaking, at these rates LLLTs would be hard pressed to earn the salaries they expect while taking on low-income clients more often than the occasional pro bono or low bono case. In this sense, LLLTs’ anticipated attempts at solo practice would mirror some of the same challenges that solo practitioner lawyers face, and because of that their prices may mirror each other, too.255 At that rate, as one skeptic has put it, “Why hire a ‘lawyer lite’ when you can just hire a lawyer?”256

---

254. See supra Section II.A; supra fig.2; supra fig.3.
255. See Granat, supra note 48.
To that end, some LLLTs and Candidates have mentioned that they would like to use a sliding scale fee structure for their practice, but LLLTs’ limited scope calls into question whether such a business model could be tenable. One LLLT reported that she would be “willing to adjust [the fee] in situations depending on if it’s a low income client.” On the other end of the financial spectrum, another ventured: “[I]f you get a reputation for quality work, I don’t think that it’s absolutely confined, your work, to the lower income bracket or the moderate-income bracket.” She elaborated: “[Lower income individuals affording services is] always a struggle. There is the possibility of offering a sliding fee scale.”

Yet she also cautioned that offering a sliding scale “would be dependent upon generating enough of the full-paying clients that you could afford to do that.” Realistically, she was not sure that she would earn enough to do so:

Until I know what my clientele is and what kind of income I can generate, it’s hard for me to say right off the bat that I can do that. I would definitely want to include that in my ideal practice that I could do a sliding scale fee depending on people’s incomes.

Indeed, LLLTs cannot handle cases that entail more complicated property matters.

[I]f someone has a business and they have a lot of assets and they have certain things, they, rightfully so, should go to an attorney because there’s a lot of particulars that are involved in that process, and there are rules that protect them. I can’t do certain things that an attorney can do, such as distribution of real property and the disbursement of retirement income through a separate order . . . .

Since APR 28 precludes LLLTs from assisting higher-net individuals who invest, hold pensions, or own property, their restricted ability to work...
with those on the other side of the wealth curve will also restrict their ability to take on clients who can subsidize fees for lower-income clients. As one LLLT put it, “We can’t even help people who have real property . . . so it’ll be hard for [our clients] to have liquid assets that they can use,” and because of that “it’s gotta be lower-income to medium-[income]” clients that they would help. As such, the model as designed curbs the feasibility of LLLTs offering sliding scale fee structures in their practice and inhibits another potential approach to sustainably serving low-income clients.

* * *

All of this has yet to mention the lingering possibility that LLLTs, practicing solo or within a firm, still must refer their clients to attorneys should the complexity of the case spill over their limited scope. LLLTs are well aware of the possibility:

I’ll have clients that get to a point where, wait a minute, I can’t help you with this. We need to get you connected with an attorney who can advise you how to do this. Or advise you, you can make the decision, and then I can carry out that lawyer’s instructions.

Even if necessary, “[i]t’s kind of cost prohibitive for the client to pay this attorney to figure out what’s going on. You know, to go and argue,” one LLLT explained. She said that she and her employer, a firm, were “trying to figure out how [they] can work together . . . [on] some sort of business model so that [she has] an attorney available to argue things.” They were floundering to find a way to make the transition both worth the attorney’s time and affordable to the client: “Right now we’re just really not seeing how it’s going to work like that.” Another LLLT struggled to discern the same:

There’s challenges that are presented by the rules of professional conduct. . . . I mentioned one about how LLLTs are not allowed to advise or assist in the division of real property. That, and also the division of business entities and the division of certain retirement funds. So, that creates a challenge, because it will be an added cost

264. See LLLT Interview 011.

265. See Crossland & Littlewood, supra note 21, at 617 (explaining that LLLTs learn materials beyond the scope of what they can advise so that they discern the boundary of their limited scope and can refer the client to a lawyer at that point).

266. See LLLT Interview 013.

267. See LLLT Interview 003.

268. See id.

269. See id.
for my client to refer him or her to . . . [an] attorney . . . That part I
don’t think works very well or will work very well . . . .

Even if the property distribution limitation may only affect higher-
income clients,271 LLLTs’ limited scope could also affect lower income
clients in the case of, say, a contentious divorce, custody battle, or
restraining order where the client needs a counselor to represent her in
court or in negotiation with opposing counsel.272 The outstanding
possibility that an LLLT would need to refer a case to a more expensive
attorney only adds doubt that the LLLT model would solve this aspect of
the access to justice dilemma.

Granted, the initial cohort of LLLTs attracted many paralegals,
perhaps even a disproportionate amount. Of the LLLTs interviewed, 14 of
15 reported previously or currently working as a paralegal.273 Of the
Candidates surveyed,274 15 of 21 reported working previously or currently
as a paralegal.275 The insights of those interviewed therefore could skew
towards those who have worked or currently work as a paralegal in a law
firm,276 which could bias the models and prices they anticipate using in
their LLLT work toward those with which they are familiar. The shift
suggests that later cohorts may attract a wider diversity of professional
backgrounds from candidates, which could also mean that they start with
clean slates that remain open to a more creative approach to law if their
expectations have not been colored with existing approaches.

At the same time, for both initial cohorts, so few report looking to
opportunities in the public sector or businesses outside of law relative to
the vast majority who anticipate working at a law firm or opening up their
own practice. Consequently, nearly all the initial LLLTs plan to seek work
that would be difficult to sustain without charging rates significant enough
to cover business expenses and earn an income on top of that—rates that

270. See LLLT Interview 008.
271. Low-income family law clients may not have the real property or financial assets that would
require an LLLT to pass on their case to an attorney to deal with the property division under APR 28’s
regulations. Nonetheless, it may be worth noting that there are lots of family law issues specific to
low-income clients that can be difficult to navigate, for example the interplay of property division or
maintenance settlements with disability or health insurance benefits, or the child support or birth
expense guidelines used in cases that involve low-income parties.
272. See Aprile, supra note 44, at 231 (“In general, a legal representative who cannot
communicate with an opposing party is of questionable value.”).
273. See LLLT Interviews 001–014.
274. Seventeen of those surveyed as “Candidates” for this study came into the model as part of
the second cohort, and the other 4 started with the first cohort but had not yet passed the exam. See
LLLT Surveys 1–21.
275. Id.
276. Of those interviewed and surveyed, most of those who said they previously or currently
worked as a paralegal did or do so at a law firm. See LLLT Interviews 001–014; LLLT Surveys 1–21.
do not give reason to believe that the LLLT model will increase access to justice for those who can least afford it.

C. The Motivations, Not Martyrdom, of LLLTs and Candidates

The prices offered and sectors pursued reflect, or perhaps stem from, the motivations of LLLTs and Candidates seeking this licensing. Because LLLTs themselves will make the day-to-day choices about the work—where, how, and which clients to target—they will shape the model by determining how it is carried out. Accordingly, their motives, values, and goals will shape the model, especially these initial cohorts. Like any institution touched by human hands, the motivations of the people who comprise it will knead the model into its ultimate form. The push of practitioners’ altruism and their instinct to leave a legacy against their pull of self-preservation and pursuit of happiness will shape the LLLT model as much as any institution or social solution. LLLTs bring the “why,” and as such, will bring the “how.”

So, why? Why have these initial cohorts decided to pursue legal technician licensing? LLLTs and Candidates acknowledge their desire to improve their own quality of life alongside their desire to help others who cannot otherwise afford legal assistance. Consequently, LLLTs and Candidates recognize the limitations they face in serving those who cannot afford to pay, and instead plan to focus primarily on those clients who can afford to sustain their practices. In other words, even for LLLTs and Candidates aspiring to serve those who can least afford legal services, the need to balance caring for others with caring for self and family leads them to accept and admit that, at the core of their practice, they will not be able to focus on low-income clients.
Figure 9 – LLLTs and Candidates Are Less Motivated to Serve Those Who Cannot Afford to Pay Anything

LLLTs' and Candidates' Motivations for Pursuing Licensing
(n = 36, "Very Important," multiple responses)

- Expanding legal services to: Those who cannot afford a lawyer, but can pay something: 72%
- Expanding legal services to: Family law: 58%
- Challenging Myself: 53%
- Professional Mobility: 50%
- Higher Earning Potential: 44%
- Job Stability: 44%
- Expanding legal services to: Those who cannot afford a lawyer, and cannot pay anything: 39%
- Expanding legal services to: Those who can afford a lawyer, but prefer an LLLT: 28%
- Earning Lawyers' Respect: 19%

277. Responses include both responses from closed-ended survey questions (where Candidates were asked whether listed motivations were very important, important, or not important) and open-ended interview questions (where LLLTs were asked what motivated them to become LLLTs without a list of potential reasons). The figure combines responses by including survey respondents who listed a motivation as “very important” and interview participants who mentioned a particular motivation, since offering a motivation without prompting signals its significance.
To improve their quality of life and work, LLLTs and Candidates are not necessarily looking to make more money but to grow professionally and gain flexibility in their schedules. The majority expected to make more money as an LLLT than they would have otherwise.\textsuperscript{278} Most said that heightening their earning potential was important.\textsuperscript{279} However, more often
than not, participants did not report this as a key motivating factor. Most felt similarly about job stability and professional mobility: important, but not very important.

More so, LLLTs and Candidates want to take control of their professional life. The opportunity to challenge themselves provided a key motivation for all but a handful of the participants.\(^\text{280}\) As one put it, her current job demanded much from her physically while she knew she was not “living up to [her] potential.”\(^\text{281}\) Further, most said that expanding legal services in family law provided a very important source of their motivation, indicating some sense of aspiring to leave their mark on the profession or help others in a moment of need. And almost half offered—without prompting, suggesting its significance—that greater flexibility and control of their own schedule served as a motivator. One wanted to be able to take Fridays off.\(^\text{282}\) Another wanted to make more money working while spending less time as she prepared for retirement.\(^\text{283}\) Another explained that becoming an LLLT would allow her to fulfill her desire to help others while being there for her kids:

\[
\text{[I]t’s hard to balance wanting to help others while making sure that my own children are, like, I don’t want [them] to sacrifice what they have of me while I’m helping other people. So, this is why I felt it was a good balance where I could do something that I love, help people.}\(^\text{284}\)
\]

While such motivations do not preclude serving low-income clients, they may help to explain or reinforce LLLTs’ focus on serving those from more moderate means since such clients may be more willing and able to pay the kind of prices that facilitate working fewer hours and taking more days off.

2. Focus on Moderate Means

On the whole, regardless of how much LLLTs and Candidates want to expand family law legal services or gain agency in their schedules and professional development, they acknowledge that they are more inclined to serve those with a moderate income. When asked what type of financial background they thought their clients would have, all but a few indicated that they anticipated serving clients with a moderate income.\(^\text{285}\)

\(^{280}\) See supra fig.9.
\(^{281}\) See LLLT Interview 005.
\(^{282}\) See id.
\(^{283}\) See LLLT Interview 010.
\(^{284}\) See LLLT Interview 014.
\(^{285}\) See supra fig.9; supra fig.11. This Article defines “moderate income” for participants as somewhere between $23,340 and $46,680 per year for an individual, or between $47,700 and $95,400.
Figure 11 – Only a Few LLLTs Plan to Focus Exclusively on Working with Low-Income Clients

<table>
<thead>
<tr>
<th>Type of Financial Backgrounds that LLLTs and Candidates Think Their Clients Will Have?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(n = 36, single responses)</td>
</tr>
<tr>
<td>Lower Income Only</td>
</tr>
<tr>
<td>Lower or Moderate Income Only</td>
</tr>
<tr>
<td>Moderate Income Only</td>
</tr>
<tr>
<td>Lower or Moderate or Higher Income</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>16</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>7</td>
</tr>
</tbody>
</table>

Fig. 11: When asked what kind of financial backgrounds they expected their clientele to have, almost all LLLTs and Candidates planned to serve moderate-income clients, and almost three times as many planned to target moderate-income clients exclusively compared to those who planned to focus exclusively on working with low-income clients. Most frequently, respondents reported that they planned to work with both low- and moderate-income clients.

Note: Low income is defined as less than $23,339 per year for an individual, or less than $47,699 for a household of four; ** Moderate income is defined as between $23,340 and $46,680 per year for an individual, or between $47,700 and $95,400 per year for a household of four; ^ High income is defined as at least $46,681 per year for an individual, or at least $95,401 per year for a household of four.

Compared to any other motivation, more LLLTs and Candidates reported that they were very motivated to become LLLTs to expand legal services to those who cannot afford a lawyer but can afford to pay something. In contrast, expanding legal services to those who cannot afford a lawyer and cannot afford to pay anything was one of the least important motivations for LLLTs and Candidates. Overall, most LLLTs and Candidates found that increasing their earning potential, challenging themselves, stabilizing their job security, and catalyzing their professional mobility provided more motivation than serving those who could not

per year for a household of four, based on the Census Bureau’s Federal Poverty Level rates upon which the 2015 Civil Legal Needs Study relied. See CIVIL LEGAL NEEDS STUDY 2015, supra note 13, at 11.
afford to pay for legal services. How can we reconcile this with so many participants reporting that they wanted to become LLLTs because they aspire to promote access to justice?

Some LLLTs want to provide affordable legal services for those with moderate means because they think that population has even less access to legal services than low-income populations. One LLLT explained:

There are very little resources that you could pass along the medium-income people to. There was [sic] resources for really low-income people—although not much, but there were some. There’s really nothing that you can do to offer help for medium-income people, except maybe pass them on[ ] to an online self-help site or something like that. . . . It seemed like a no-brainer that if you have some knowledge of what [the family law] forms are and how the process works, you would be able to offer a service to these people without having to advise them on law . . . more or less telling them how to do stuff, helping them fill out forms. That kind of service didn’t seem to exist.

Another LLLT acknowledged that “critics of the program . . . said it’s not really going to help the problem of the unmet legal needs in our state,” but when she worked as a court facilitator providing assistance to *pro se* litigants, “several of the *pro se* that came in were not the very poor. They had jobs and could probably afford to pay something, just not what an attorney would charge.” For another, she looked around her neighborhood and saw a problem she could help to solve:

[W]e live in a middle class neighborhood, and our office is just down the street from where we live. And so, we know that for most people they cannot afford to pay attorney’s fees of $300 or more, and they don’t necessarily need that. . . . So, we’ve just been in support of [the LLLT model] from the beginning because it makes sense, given the neighborhood that we live in, and what I know from my experience . . .

Still another noted:

I know this program is designed to meet the need of lower income people that maybe are unable to afford an attorney. After being in this business for a long time and seeing people from all walks of life, I really expect it to be a broader range than that. We have always gotten

---

286 See, e.g., LLLT Interview 004.
287 See LLLT Interview 010. While this is true, it may be worth reiterating that organizations serving low-income legal consumers for free must still turn away huge numbers of potential clients each year due to lack of resources. See LEGAL SERVS. CORP., supra note 3.
288 See LLLT Interview 008.
289 See id.
phone calls at this office, on a fairly regular basis from people: Is there anybody there that can help me with these forms? . . . Trying to do things in the most economical way is not specific to the poverty level.290

These LLLTs see a need affecting moderate-income legal consumers and an opportunity to solve it.

Other LLLTs and Candidates have resolved that, ideals aside, they cannot afford to serve lower income clients. One LLLT explained: “I like the idea that [the LLLT model] sticks to, at least in theory: affording people who have limited access or no access to representation and the opportunity to have some help. That’s what appeals to me. I’ve always been the I-want-to-save-the-world kind of person.”291 Yet she went on to recognize: “Even though I passionately, naively believe in justice for all, it was kind of in conflict with, okay, how do you do that when you want to save the world but you want to make money?”292 She noted that the model “is supposed to be about affording people access to justice;” but when it comes down to it, “it really is about being able to practice in some way in the law. . . .”293 She conceded:

There’s still going to be people out there who just can’t afford it at the end of the day. Especially with family law. You’re not going to fight about anything that’s more important than your family and your children. It’s so emotional that it’s an expensive area of law. I mean, it’s a good goal, but at the end of the day not everybody is going to be able to afford an LLLT even. There are going to continue to be people who have to appear in court with no clue about what’s going on and hope for the best.294

She concluded: “There is no fix for access to justice.”295

At least, no quick fix. Another started her career in non-profit legal services and saw the purpose of the LLLT model as “really to allow poor people to get services.”296 At the same time, she expected that she would gross about $200,000 each year, so when she projected that her clients would come from moderate- and low-income backgrounds, she stopped herself: “I expect that most of them will be at or below federal poverty level—or, well, I shouldn’t say below.”297 Even those who want to save

290. See LLLT Interview 010.
291. See LLLT Interview 006.
292. See id.
293. See id.
294. See id.
295. See id.
296. See LLLT Interview 001.
297. See id.
the world and agree that the LLLT model seeks to expand access to justice, including to low-income consumers, do not see how they can consistently serve these lower income clients. They want to “help people” and see their LLLT role as “a happy medium.”

Rather, those who see themselves working with low-income clients mostly intend to take on a case here or there or do pro bono work. One indicated that she would “be definitely committed to taking pro bono clients every once in a while.” One planned to start volunteering at local legal clinics and taking on referrals from attorneys for those who struggle to afford traditional legal counsel. Another volunteered at a family law legal clinic for those with low or no income once every six weeks. Yet these are exceptions. They occur at the margins. By and large, LLLTs do not plan to serve low-income clients in their practice.

Both the initial design of the LLLT scheme and these insights from the first cohorts raise doubts that the model can increase access to justice for low-income legal consumers. The LLLT model essentially mimics the aspects of the legal profession that keep lawyers’ prices artificially high, providing little reason to believe that LLLTs will lower prices enough to serve a meaningful number of low-income clients. Nor do LLLTs’ and Candidates’ initial career plans indicate they will reinvent conventional legal service delivery models. Most either plan to work for law firms charging rates lower than attorneys’ fees or open their own practice while keeping overhead low. Both paths still require LLLTs to charge rates high enough to bring in revenue to covers costs and sustain their wages. Neither route capitalizes on the unique opportunity for LLLTs to partner with industries and investors outside of law, an opportunity that does not exist for lawyers under the rule of professional conduct that prohibits profit-sharing with non-lawyers. Nor does the LLLT model decrease the cost of legal professionals’ labor to the extent that government offices or non-profit organizations could substantially expand the human capacity of their legal services absent an increase in funding for additional hires. And, while most of these LLLTs and Candidates decided to earn their license to expand access to justice in family law, they still predominantly intend to target clients who can afford to pay their rates—rates lower than attorneys’ fees but not low enough for low-income populations to afford. As such, the LLLT model does not give us reason to believe that it will lower the

---

298. See LLLT Interview 003.
299. See LLLT Interview 001.
300. See LLLT Interview 014.
301. See LLLT Interview 007.
cost of legal services so significantly that low-income populations will access justice through civil legal assistance any better than before.

III. IMPLICATIONS

If Washington or other states hope to increase access to justice for their low-income populations with legal technicians, they should view the LLLT model as just that: a model. The design could be adapted a number of ways to increase access to justice beyond moderate-income consumers to those with lower incomes.

Most narrowly, the model could provide more information to LLLTs about harnessing the potential of the market, prospective models, and their motivations. Without market research to analyze what customers across the economic spectrum would be willing and able to pay for their services, LLLTs and Candidates will continue to feel their way through the dark as they price their services. Even this Article can only assume what low- and moderate-income populations would be willing and able to pay for legal assistance from legal technicians without more precise information about how much people would actually pay. LLLTs need market research that provides more nuanced data about what their potential clients could afford so that they and their employers can set prices accordingly, perhaps even charging higher amounts to those who can withstand them in order to subsidize those who cannot afford as much, making their sliding scale ambitions come to life.

The LLLT model could go even farther in training LLLTs to consider the possible permutations of their work. With richer training in business modeling and entrepreneurship, LLLTs could be more likely to consider and pursue more innovative legal service models, including partnerships with the finance, technology, or retail industries. This unique training may give LLLTs an edge that is not only marketable over their attorney competitors under professional ethics rules but could spark these pioneer-minded legal professionals to dream up how they could realistically disrupt the industry to increase access to justice not only for moderate-income consumers but for low-income populations as well.

LLLTs acknowledge the potential direct impact of their work on clients, but the model’s training could delve more deeply into its potential systemic implications and potential to increase access to justice more broadly defined as social justice. Community paralegals, like those in Sierra Leone and other countries around the world, often use community-based education and advocacy to complement their legal assistance work. This approach can attempt to shift power dynamics in the long run in order to expand low-income clients’ ability to access justice in a broader
Including this as part of LLLTs’ training could provide legal technicians more substantive and procedural tools to explore how even limited time and resources can be invested in a way that allows LLLTs to play a greater role in shaping how low-income populations can better access justice in a holistic sense.

Beyond possible revisions to its curriculum, as it evolves the LLLT model could facilitate more opportunities for stakeholders to consider or get together to workshop more innovative legal service delivery models. The model could bring LLLTs and leaders from the public sector and other industries together to catalyze the creation of LLLT positions beyond those at traditional law firms. Tech companies or larger corporations could brainstorm ways to work with LLLTs to disrupt the legal market, and non-profits could look at why they might want to hire in-house advocates who can independently offer basic legal advice to clients. Some LLLTs might want to pursue work that allows them to further build their existing or nascent business skills. However, brokering opportunities for these actors to see if there are more ways to work together might give all of them a better shot at serving more clients, including low-income clients, while allowing them to capitalize on their strengths. Doing so could allow LLLTs to focus on what they are trained and generally most motivated to do: provide legal assistance that increases people’s access to justice in family law.

The model could also develop more scholarship opportunities so that it attracts LLLTs and Candidates beyond those who can afford at the outset the time and money needed to pursue the training—in other words, beyond those who have a more stable financial situation themselves. By providing such scholarships, the model could encourage individuals from lower income backgrounds to pursue LLLT training, who might bring stronger motivations and more nuanced understanding of the challenges and solutions needed to better serve low-income clientele.

Allowing LLLTs to appear in court, negotiate with opposing counsel, and handle some cases involving property division would also make it more plausible that a client could sign on upfront for the total cost of legal assistance without surprises on the back end when an LLLT says they need to refer the client to an attorney after all. Granting LLLTs these tools would not only provide their clients with a more comprehensive, seamless,

---

302. Maru, supra note 159, at 440–42. It is worth noting that paralegals in Sierra Leone and elsewhere often see a bigger role for themselves in society and with the problems they are trying to address, namely participating as democratic actors on behalf of their clients. Id. at 458. Certain LLLTs may also see this as their role on an individual basis, but the LLLT model does not appear to share this vision as a norm. Thus, expanding LLLTs’ role more generally to include moving for broader, systemic change on behalf of their clientele might require more of a facelift than a makeover.
and affordable experience but would also permit LLLTs a more complete suite of tools which, combined with their lower rates, could bring down the cost of lawyers with the rise of more analogous competitors, albeit still theoretically. The ability to better serve more clients with moderate- or high-income backgrounds, including real property owners, could help make it feasible for LLLTs to use sliding scale models because the fees from higher-earning, higher-paying clients could subsidize their cases for lower-income clients.303 Before they are licensed, lawyers do not necessarily receive training on appearing before a court or negotiating with opposing counsel, so there is no obvious reason why LLLTs would need this for the sake of their legal competencies (though the model could offer such training if it would help courts and attorneys accept LLLTs as representatives). Likewise, while some LLLTs may not have the necessary skills to practice on thornier legal questions like those involving the division and distribution of property during a divorce, the model could always add training and assessment for licensing those LLLTs who would be willing and able to practice on those issues, rather than categorically excluding them. Washington’s model has begun to move for such amendments to the rules governing LLLT practice,304 but unless those changes come to light, these regulatory hurdles will continue to make LLLTs struggle to earn enough revenue to invest in taking on more low-income clients.

These implications play with the model at the margins. The LLLT model underlines the limitations of the legal profession as a whole to provide justice to those who can least afford it. To transform the legal market so that low-income clients can afford to access justice, the legal profession and the legal system require more systemic reforms than any legal paraprofessional model alone can provide.

The legal profession’s exclusion of non-lawyers from sharing profits with its members closes off opportunities to leverage the skills, capital, and innovations that could come from partnering with other industries like finance, technology, or retail. Easing regulations on attorneys forming these relationships could allow for collaboration that creates whole new norms for delivering legal services.305 A company like Wal-Mart or Amazon could find a way to deliver high-volume legal services at the lowest possible cost through improving delivery systems that rely more on

304. See Draft Suggested Amendments, APR 28, REG. 2(B)(2)(b), supra note 27.
305. Chambliss, supra note 31, at 590. But see Robinson, supra note 11.
aggregate problem solving than on human capital. Increasing the availability of legal services in existing storefronts, like grocery stores, pharmacies, and shopping centers could increase the visibility and convenience of legal assistance, thus expanding access to justice to those with fewer resources. Like the advice centers in the United Kingdom and South Africa, decreasing such barriers to legal consumers would address reasons that people in Washington have commonly cited for not being able to obtain legal services: physical distance and inconvenience. Such models may even be able to respond more dynamically to the legal market than law firms alone could, which could ultimately catalyze innovations that close the justice gap. Closing the gap requires more than compressing the training and compensation of human capital, which promises to be expensive as long as it is done well. Even with lower educational and overhead costs, LLLTs still require not insignificant resources to operate—for their salary, their benefits, their malpractice insurance, and other expenses. For reasons outlined above, paying LLLTs a rate or salary lower than an attorney’s will not solve the issue. Public interest attorney salaries cannot dip much further as it is without failing to pay a living wage. In fact, some LLLTs seek remuneration above the average salary of some public interest attorneys. Even LLLTs who accept a lower wage or salary are not positioned to accept income so low that a government office or non-profit would be able to hire multiple LLLTs to replace a single attorney. Expanding legal assistance to low-income clients requires new solutions based in technology and self-help resources where services can be duplicated many times over at minimal cost to make it feasible to match demand for civil legal assistance with supply. Doing so may require regulatory changes that allow for innovations across industries, given that such disruptions have been slow to come to the legal profession as yet.

On top of these regulatory issues, another persists: the state monopoly on power. The legal profession’s reliance on the state monopoly over power in society means that it also must rely on the state’s monopoly

306. See Moorhead et al., supra note 44, at 772–73, 75.
307. Maru, supra note 159, at 466.
308. CIVIL LEGAL NEEDS STUDY 2003, supra note 12, at 8–9 (reporting that some low-income respondents did not know where to turn for legal assistance and/or had less success in or access to online resources).
309. See Robinson, supra note 11, at 4, 11–12.
310. See, e.g., CIVIL LEGAL NEEDS STUDY 2003, supra note 12, at 51 (“Technology is often described as the next frontier for the delivery of civil legal assistance.”); Zachary Hill & D. James Greiner, The Possibilities of Self-Affirmation Theory in Civil Justice, 48 CLEARINGHOUSE REV.: J. POVERTY L. & POL’Y 178 (2014) (“In a world without sufficient resources for free legal assistance for all eligible persons with civil legal problems, self-help materials and advice are vital to the access-to-justice movement.”).
over justice—what justice means, where it happens, how to pursue it, why to pursue it, and of course, who can pursue it. As Hadfield discusses, the state’s monopoly on power keeps legal assistance prices high. The specific, complicated ways of pursuing formal justice mean that only a certain number of professionals can help people to navigate the complexity of the system. Legal professionals can charge accordingly.311 Not so if you further decentralize and de-monopolize the power. In that case, other actors, including more general lay advocates can move into the space and offer less expensive, perhaps even more effective, solutions. On its face, the state’s monopoly on power and justice may seem an immutable constant. Yet models exist to challenge this norm, and their acceptance is growing. Take for example the alternative community-based dispute resolution techniques employed by community paralegals in places like Sierra Leone or South Africa.312 Legal paraprofessionals in those communities can help clients resolve matters without relying on or ever encountering a formal justice system that may leave either or both parties feeling small, disrespected, and unheard—as if justice, after all, has not been served. Community-based mechanisms can explore solutions relevant to both parties that may be otherwise off the table in the limited realm of remedies offered by the formal justice system. Less formal dispute resolution mechanisms could even account for the power differentials between parties and apply laws more equitably than equally, and unevenly, in the way formal courts often must and do.313 LLLTs trained in mediation or other alternative dispute resolution mechanisms could offer more desirable solutions to clients who wish to avoid the courtroom, particularly to any low-income clients who have had prior experiences with the formal justice system that have left them feeling marginalized or even traumatized. Until the legal system truly accounts for the perspectives of low-income parties—including whether they buy into an outcome when they walk away from the formal justice system, depending on whether they feel that justice has been served based on their experience—the LLLT model can only do so much to close the justice gap in the broadest sense.

Short of such changes, the model’s limitations bolster the argument for the continued public and private funding of legal aid in its many forms—non-profit organizations, law school clinics, and so on. Even with the LLLT model, low-income legal consumers will still have to turn to legal aid or pro bono attorneys to obtain free legal services. If the costs needed to sustain such services remain the same, the money to fund legal

312. Maru, supra note 159, at 440–42.
313. Id. at 448–50.
assistance for low-income populations must come from somewhere in order to move closer to closing the justice gap.

We cannot fault the LLLT model for these underlying and overarching limitations. An idea needs to start somewhere, and this first such iteration in the United States of an independent legal paraprofessional who can give legal advice could only take on so much at first. The model must tread lightly to gain credibility and momentum, as it already challenges the legal profession in its current form. Perhaps when the LLLT model more firmly establishes itself, it can consider further reforms like these to better ensure access to justice for all, including those with a low income. Until then, the LLLT model’s overall acceptance of the legal system and profession underscores the reason to question whether the model can extend justice to those least able to afford it, both in terms of legal assistance and in terms of justice more broadly defined.

CONCLUSION

The LLLT model is not designed to increase access to justice to low-income legal consumers, an objective of the model that has been anticipated by many of its initial stakeholders and observers. LLLTs and Candidates tell us this through original research gathered for this Article about the rates LLLTs plan to charge, the jobs and service delivery models they plan to pursue, the motivations that drive them to attain their licensing, and ultimately the financial profiles of the clientele they intend to target. Charging an estimated total of $1,000 per case, LLLTs will pursue their motivations to expand access to justice in family law, primarily serving moderate-income individuals who can afford to pay such fees and sustain LLLTs’ law firm and solo practices. Save for exceptions, low-income legal consumers do not stand to benefit from the LLLT model as designed.

LLLTs’ and Candidates’ insights confirm and grow out of the structural components of the legal technician model that mimic those of the legal profession as a whole—the factors originally identified by Gillian Hadfield as the reasons for attorneys’ artificially high prices: the continued complexity and unpredictability of the cases LLLTs will handle; the state’s continued monopoly over LLLTs’ licensing; and the homogenous nature of the skills valued and offered by the legal profession, LLLTs and lawyers alike. The LLLT model lowers the upfront costs, education, and examination requirements as barriers to entry into the legal profession, but the model still functions within and perpetuates the other aspects of the profession that raise legal costs for consumers.

314. See supra note 65 and corresponding text.
Going forward, Washington and other states considering licensing schemes like the LLLT model could better aim to meet the needs of low-income legal consumers by more substantially reimagining the breadth and depth of training LLLTs can attain, the opportunities to innovate legal service delivery models, and the role LLLTs can play in the legal profession and society at large.

This is not to say the LLLT model could not prove to be a valuable tool to increase access to justice. Far from it. If the model can increase access for moderate-income legal consumers who could not previously afford civil legal services to meet their needs, the model would do its part to close the justice gap. Indeed, the model and its architects have not claimed that the scheme ever intended to fully close the justice gap. Still, those who hope the model would increase access to justice for low-income consumers should temper their expectations.

As the Washington experiment moves forward and we continue to study its possibilities and limitations, LLLTs give legal practitioners and scholars the chance to pause and ask why we regulate our profession the way we do—and whether we could regulate the profession such that one day there really can be justice for all.
APPENDIX A

METHODOLOGY DETAILS

The author conducted this original primary research in order to analyze how the LLLT model has begun to play out through the perspectives and responses of those closest to the work: those who have become or are working to become licensed as LLLTs.

Prior to the study, Harvard University’s Institutional Review Board reviewed and approved the design, correspondence, interview questions, and other materials. The method distinguished between: (1) candidates who had taken and passed the LLLT bar exam (LLLTs or Group 1)315 and (2) candidates who had enrolled in classes to train to become LLLTs but either had not yet taken the exam or had taken the exam but not yet passed (Candidates or Group 2). Group 1, those who had passed the exam, included the following: those who had applied for and received their LLLT licenses; those who met all requisite criteria for LLLT licensing but had not yet applied for their LLLT licenses; and those who did not yet meet all requisite criteria for licensing (e.g., completing the 3,000 practice hours and obtaining malpractice insurance). Within Group 1, eight participants had earned their license by the point of their interview. Group 2 included the following: those who completed their classroom credits but had not yet passed the exam; those who completed their classroom credits but had not yet taken the exam; those who completed their core curriculum credits but not yet their practice area credits; those who enrolled and started earning classroom credits but had not yet completed their core curriculum or practice area credits. Within Group 2, four participants had taken the exam at the point of the survey but had not yet passed.

The WSBA provided contact information for both groups after checking with the potential participants to ensure that anyone who did not wish to be contacted could opt-out of further communication. No potential participants opted out, although in an abundance of caution, the WSBA did not pass on the contact information for one potential participant when she had her e-mail away message active during the window when recipients could opt-out. Both groups received e-mails inviting them to participate in the study. The correspondence invited those in Group 1 to participate in a phone interview about an hour long and those in Group 2 to take an online survey.316 Each group received an initial invitation and,

315. The term “LLLT” is shorthand used to refer to this group even though some still had yet to complete their licensing applications by the time of the interview.
316. One member of Group 1 asked to take an online survey rather than participate in an interview. For that individual, the interview questions were adapted into online survey questions and
for those who did not initially respond, up to three follow-up invitations over the course of two weeks. Interviews were completed between mid-November and mid-December 2015; online surveys were open from early to late November 2015. Participants were first asked for their informed consent about the minor risks of participating in the study and also for their birth year to attest to their age of majority. Participation was voluntary and respondents did not receive compensation for their time. However, as a token of appreciation, respondents were entered into a raffle from which one entry was drawn to receive a $50 Amazon gift card upon completion of the study.

The author conducted interviews remotely using a telephone conferencing system. Interviews were not conducted anonymously, but respondents participated with the understanding that their answers would be kept anonymous in their further disclosure. The author coded each interview with a number and did not include direct identifying information even though, as participants were informed, a small risk remains that the combination of answers or quotes could be used indirectly to identify respondents. Answers shared here have been edited as best as possible to prevent such identification.

Participants had the opportunity to give or decline permission for their telephone interview to be audio recorded. All participants gave their permission for audio recording, and these recordings were then transcribed. The interviews were semi-structured, consisting of a mix of open and closed pre-determined questions and follow-up questions as they arose. Sometimes questions were asked out of order, depending on the responses of the participant, and sometimes certain questions were not asked at all, again depending on the responses of the participant and time available. Participants could pause or stop the interview at any time and could also skip any questions that they did not want to answer. Surveys were administered online through the Qualtrics survey platform. Potential participants received an individualized link to take the survey. Online surveys were conducted anonymously. Each survey was coded with a number and, again, direct identifying information was not recorded with participants’ responses with the possible exception of the ability to determine someone’s identity indirectly from their responses. The surveys were structured, consisting of a mix of open and closed pre-determined questions. The survey asked the same questions to each participant in the same order. As for Group 1, participants were told that they could pause or stop the survey at any time and could also skip any questions that they

---

sent through the same online platform as the surveys for Group 2. This respondent’s answers were combined with those of Group 2.
did not want to answer. Responses from both groups were recorded and later analyzed by the author.

The sample consisted of the first two cohorts of LLLTs and Candidates, which were comprised of 53 total potential participants. Of the 52 potential participants following the WSBA’s initial outreach, there were 17 in Group 1 (LLLTs) and 35 in Group 2 (Candidates). Of the potential participants, 15 of the 17 members of Group 1 participated in the study (88.2% response rate) and 21 of the 35 members of Group 2 participated (60% response rate). Overall, 36 of the 52 members of both Groups 1 and 2 combined participated in the study (69.2% response rate). The responses provide valid and reliable insights given these rates and the Article’s case-based methodology.

317. This excludes the one enrollee who was away from e-mail and thus did not receive an invitation without the chance to opt-out.

318. See Small, supra note 73, at 17–18, 28.
APPENDIX B

QUESTIONNAIRE

The author used the below questions to survey LLLT Candidates and adapted substantially similar questions to interview LLLTs, varying based on the flow of the conversation and time permitted. Closed-ended questions in the survey with predetermined response options provided were generally asked as open-ended questions in the interviews.319

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer Options Provided (Surveys)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do I have your informed consent to proceed with this survey/interview?</td>
<td>-Yes, I consent.</td>
</tr>
<tr>
<td></td>
<td>-No, I do not consent.</td>
</tr>
<tr>
<td>2. In order to take this survey, you must be 18 years old or older. In what year were you born?</td>
<td>-1925 or Before</td>
</tr>
<tr>
<td></td>
<td>-All Years in Between Listed</td>
</tr>
<tr>
<td></td>
<td>-1997 or After</td>
</tr>
<tr>
<td>3. How did you find out about the opportunity to become a Limited License Legal Technician (&quot;LLLT&quot;). (Check all that apply.)</td>
<td>-Colleague at prior place of employment</td>
</tr>
<tr>
<td></td>
<td>-Newspaper (online or print)</td>
</tr>
<tr>
<td></td>
<td>-Family member</td>
</tr>
<tr>
<td></td>
<td>-Friend</td>
</tr>
<tr>
<td></td>
<td>-Community college</td>
</tr>
<tr>
<td></td>
<td>-Other</td>
</tr>
<tr>
<td>4. Before you started LLLT training, had you done any of the following?</td>
<td>-Worked as a paralegal at a law firm</td>
</tr>
<tr>
<td></td>
<td>-Worked as a paralegal at a non-profit, government office, or courthouse</td>
</tr>
<tr>
<td></td>
<td>- Worked in a non-paralegal role (e.g. legal assistant) at a law firm</td>
</tr>
<tr>
<td></td>
<td>- Worked in a non-paralegal role (e.g. legal assistant) at a non-profit, government office, or courthouse</td>
</tr>
<tr>
<td></td>
<td>- Ran a business</td>
</tr>
<tr>
<td></td>
<td>-Wrote a business plan</td>
</tr>
<tr>
<td>5. Do you have any prior experience with family law? (Check all that apply.)</td>
<td>-Yes – Professional Experience</td>
</tr>
<tr>
<td></td>
<td>-Yes – Personal Experience</td>
</tr>
<tr>
<td></td>
<td>-No</td>
</tr>
<tr>
<td>6. How important are the following motivations in your decision to become an LLLT?</td>
<td>-Very Important</td>
</tr>
<tr>
<td></td>
<td>-Important</td>
</tr>
</tbody>
</table>

319. The questionnaire refers to LLLTs’ required hours as “apprenticeship” hours, as they have sometimes been called. See, e.g., Ambrogi, supra note 65. These hours are more accurately referred to as the experience requirement or practice hours. See, e.g., Crossland & Littlewood, supra note 21, at 621; Become a Legal Technician, supra note 65.
7. How important are the following motivations in your decision to become an LLLT?

- Expanding legal services to family law
- Expanding legal services to those who can afford a lawyer, but prefer an LLLT
- Expanding legal services to those who cannot afford a lawyer, but can pay something
- Expanding legal services to those who cannot afford a lawyer, but cannot pay anything

8. Is there anything else that motivated you to become an LLLT?

9. As of today, how easy or challenging do you expect that it will be to pursue these motivations as an LLLT?

10. Why do you think it will be challenging to pursue these motivations? (Check all that apply.) (If applicable)

11. Why do you think it will be easy or very easy to pursue these motivations? (Check all that apply.) (If applicable)
<table>
<thead>
<tr>
<th>Question</th>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>12. Have you ever wanted to be an attorney?</td>
<td>-Yes – and I still want to be an attorney.</td>
</tr>
<tr>
<td></td>
<td>-Yes – but I no longer want to be an attorney.</td>
</tr>
<tr>
<td></td>
<td>-No</td>
</tr>
<tr>
<td>13. Do you think that becoming an LLLT will help you become an attorney? (If applicable)</td>
<td>-Yes</td>
</tr>
<tr>
<td></td>
<td>-Maybe</td>
</tr>
<tr>
<td></td>
<td>-No</td>
</tr>
<tr>
<td>14. Why don’t you want to be an attorney? (If applicable)</td>
<td>-I do not see the purpose if I can be an LLLT or paralegal.</td>
</tr>
<tr>
<td></td>
<td>-I do not want to go through that much school.</td>
</tr>
<tr>
<td></td>
<td>-I do not want to take on that much debt.</td>
</tr>
<tr>
<td></td>
<td>-I do not think it is for me.</td>
</tr>
<tr>
<td></td>
<td>-I do not think I would be qualified.</td>
</tr>
<tr>
<td></td>
<td>-Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>15. Where do you think you will work as an LLLT? (Check all that apply.)</td>
<td>-A law firm where I worked previously</td>
</tr>
<tr>
<td></td>
<td>-A law firm where I have not worked previously</td>
</tr>
<tr>
<td></td>
<td>-A non-profit organization</td>
</tr>
<tr>
<td></td>
<td>-A government office</td>
</tr>
<tr>
<td></td>
<td>-A courthouse</td>
</tr>
<tr>
<td></td>
<td>-A business outside of the legal field</td>
</tr>
<tr>
<td></td>
<td>-Starting my own practice</td>
</tr>
<tr>
<td></td>
<td>-I have not given that much thought to where I might work.</td>
</tr>
<tr>
<td></td>
<td>-Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>16. Where do you think you will work geographically?</td>
<td>-In or around Seattle</td>
</tr>
<tr>
<td></td>
<td>-Outside of Seattle – Where (if known)? [Open Text]</td>
</tr>
<tr>
<td></td>
<td>-Multiple locations – Please Explain [Open Text]</td>
</tr>
<tr>
<td></td>
<td>-Don’t Know</td>
</tr>
<tr>
<td></td>
<td>-Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>17. What do you think your clients will be charged?</td>
<td>-Hourly rate – How much (if you had to estimate)? [Open Text]</td>
</tr>
<tr>
<td>Question</td>
<td>Options</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>18. What type of financial background do you think your clients will</td>
<td>- Higher income (at least $46,681/year for an individual, or at least</td>
</tr>
<tr>
<td>have? (Check all that apply.)</td>
<td>$95,040 for a household of four)</td>
</tr>
<tr>
<td></td>
<td>- Moderate income (between $23,340-46,680/year for an individual, or</td>
</tr>
<tr>
<td></td>
<td>between $47,700-95,400/year for a household of four)</td>
</tr>
<tr>
<td></td>
<td>- Lower income (less than $23,339/year for an individual, or less</td>
</tr>
<tr>
<td></td>
<td>than $47,699 for a household of four)</td>
</tr>
<tr>
<td></td>
<td>- Don’t Know</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>19. How much do you think you will earn as an LLLT?</td>
<td>- At least $95,401/year</td>
</tr>
<tr>
<td></td>
<td>- Between $47,700-95,400/year</td>
</tr>
<tr>
<td></td>
<td>- Between $23,340-47,699/year</td>
</tr>
<tr>
<td></td>
<td>- Less than $23,340/year</td>
</tr>
<tr>
<td></td>
<td>- Don’t Know</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>20. How do you think you will earn this amount?</td>
<td>- Salary basis</td>
</tr>
<tr>
<td></td>
<td>- Hourly basis</td>
</tr>
<tr>
<td></td>
<td>- Fees-per-case basis</td>
</tr>
<tr>
<td></td>
<td>- Depends – Please Explain [Open Text]</td>
</tr>
<tr>
<td></td>
<td>- Don’t Know</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>21. How does this income compare to what you could make without</td>
<td>- Much More</td>
</tr>
<tr>
<td>becoming an LLLT?</td>
<td>- More</td>
</tr>
<tr>
<td></td>
<td>- About the Same</td>
</tr>
<tr>
<td></td>
<td>- Less</td>
</tr>
<tr>
<td></td>
<td>- Much Less</td>
</tr>
<tr>
<td></td>
<td>- Don’t Wish to Share</td>
</tr>
<tr>
<td>22. How much do you think attorneys earn (on average in Washington</td>
<td>- At least $95,401/year</td>
</tr>
<tr>
<td>state)?</td>
<td>- Between $47,700-95,400/year</td>
</tr>
<tr>
<td></td>
<td>- Between $23,340-47,699/year</td>
</tr>
<tr>
<td></td>
<td>- Less than $23,340/year</td>
</tr>
<tr>
<td></td>
<td>- Don’t Know</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>Question</td>
<td>Options</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>23. At what stage are you in the LLLT licensing process?</td>
<td>- Enrolled, but have not started earning classroom credits</td>
</tr>
<tr>
<td></td>
<td>- Enrolled and started earning classroom credits, but have not yet completed them</td>
</tr>
<tr>
<td></td>
<td>- Completed my classroom credits, but have not yet taken or passed the qualifying exam</td>
</tr>
<tr>
<td>24. Were you able to satisfy your core curriculum credits before you started LLLT training?</td>
<td>- Yes, all core curriculum credits</td>
</tr>
<tr>
<td></td>
<td>- Yes, some core curriculum credits</td>
</tr>
<tr>
<td></td>
<td>- No</td>
</tr>
<tr>
<td>25. How easy or challenging did you expect it would be to complete your core curriculum credits, before deciding to become an LLLT?</td>
<td>- Very Challenging</td>
</tr>
<tr>
<td></td>
<td>- Challenging</td>
</tr>
<tr>
<td></td>
<td>- Neutral</td>
</tr>
<tr>
<td></td>
<td>- Easy</td>
</tr>
<tr>
<td></td>
<td>- Very Easy</td>
</tr>
<tr>
<td>26. How easy or challenging do you think it has been to complete your core curriculum credits?</td>
<td>- Very Challenging</td>
</tr>
<tr>
<td></td>
<td>- Challenging</td>
</tr>
<tr>
<td></td>
<td>- Neutral</td>
</tr>
<tr>
<td></td>
<td>- Easy</td>
</tr>
<tr>
<td></td>
<td>- Very Easy</td>
</tr>
<tr>
<td></td>
<td>- Not applicable – I have not yet completed enough of my core curriculum credits to say.</td>
</tr>
<tr>
<td>27. Why do you think it has been easy or very easy to complete your core curriculum credits? (Check all that apply.) (If applicable)</td>
<td>- My other work commitments do not interfere with the time I need to complete my core curriculum credits.</td>
</tr>
<tr>
<td></td>
<td>- My personal commitments do not interfere with the time I need to complete my core curriculum credits.</td>
</tr>
<tr>
<td></td>
<td>- My financial resources allow me the time I need to complete my core curriculum credits.</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>28. Why do you think it has been challenging or very challenging to complete your core curriculum credits? (Check all that apply.) (If applicable)</td>
<td>- My other work commitments interfere with the time I need to complete my core curriculum credits.</td>
</tr>
<tr>
<td></td>
<td>- My personal commitments interfere with the time I need to complete my core curriculum credits.</td>
</tr>
<tr>
<td></td>
<td>- My financial resources do not allow me the time I need to complete my core curriculum credits.</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
</tbody>
</table>
29. How easy or challenging did you expect it to be to complete your practice area credits, before deciding to become an LLLT?

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Challenging</td>
</tr>
<tr>
<td>Challenging</td>
</tr>
<tr>
<td>Neutral</td>
</tr>
<tr>
<td>Easy</td>
</tr>
<tr>
<td>Very Easy</td>
</tr>
</tbody>
</table>

30. How easy or challenging do you think it has been to complete your practice area credits?

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Challenging</td>
</tr>
<tr>
<td>Challenging</td>
</tr>
<tr>
<td>Neutral</td>
</tr>
<tr>
<td>Easy</td>
</tr>
<tr>
<td>Very Easy</td>
</tr>
<tr>
<td>Not applicable – I have not yet completed enough of my practice area credits to say.</td>
</tr>
</tbody>
</table>

31. Why do you think it has been easy or very easy to complete your practice area credits? (Check all that apply.) (If applicable)

- My other work commitments do not interfere with the time I need to complete my practice area credits.
- My personal commitments do not interfere with the time I need to complete my practice area credits.
- My financial resources allow me the time I need to complete my practice area credits.
- Other – Please Explain [Open Text]

32. Why do you think it has been challenging or very challenging to complete your core curriculum credits? (Check all that apply.) (If applicable)

- My other work commitments interfere with the time I need to complete my practice area credits.
- My personal commitments interfere with the time I need to complete my practice area credits.
- My financial resources do not allow me the time I need to complete my practice area credits.
- Other – Please Explain [Open Text]

33. As of today, how many apprenticeship hours have you completed?

<table>
<thead>
<tr>
<th>Hours Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>All (3,000)</td>
</tr>
<tr>
<td>Most (Approximately 1,501 – 2,999)</td>
</tr>
<tr>
<td>Some (Approximately 1 – 1,500)</td>
</tr>
<tr>
<td>None (0)</td>
</tr>
</tbody>
</table>

34. Of those hours, approximately how many did you complete prior to training to become an LLLT?

<table>
<thead>
<tr>
<th>Hours Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>All (3,000)</td>
</tr>
<tr>
<td>Most (Approximately 1,501 – 2,999)</td>
</tr>
<tr>
<td>Some (Approximately 1 – 1,500)</td>
</tr>
<tr>
<td>None (0)</td>
</tr>
</tbody>
</table>

35. How easy or challenging did you think it would be to complete your apprenticeship hours, before deciding to become an LLLT?

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Challenging</td>
</tr>
<tr>
<td>Challenging</td>
</tr>
<tr>
<td>Neutral</td>
</tr>
<tr>
<td>Not applicable – I have not yet completed enough of my practice area credits to say.</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>36. How easy or challenging do you think it will be to complete your apprenticeship hours?</td>
</tr>
<tr>
<td>37. Why do you think it has been easy or very easy to complete your apprenticeship hours?</td>
</tr>
<tr>
<td>38. Why do you think it has been challenging or very challenging to complete your apprenticeship hours?</td>
</tr>
<tr>
<td>39. Have you already taken the LLLT qualifying exam?</td>
</tr>
<tr>
<td>Q.</td>
</tr>
<tr>
<td>----</td>
</tr>
</tbody>
</table>
| 40. Do you plan to take the LLLT qualifying exam? | -Yes  
-Maybe  
-No |
| 41. How easy or challenging do you think it will be to pass the LLLT qualifying exam? | -Very Challenging  
-Challenging  
-Neutral  
-Easy  
-Very Easy |
| 42. Why do you think the LLLT qualifying exam will be easy or very easy? (Check all that apply.) (If applicable) | -My other work commitments will not interfere with the time I need to study.  
-My personal commitments will not interfere with the time I need to study.  
-My financial resources will allow me the time I need to study.  
-The classes will adequately prepare me.  
-The instructors will adequately prepare me.  
-Other – Please Explain [Open Text] |
| 43. Why do you think the LLLT qualifying exam will be challenging or very challenging? (Check all that apply.) (If applicable) | -The exam is designed to be challenging.  
-My other work commitments will interfere with the time I need to study.  
-My personal commitments will interfere with the time I need to study.  
-My financial resources will not allow me the time I need to study.  
-The classes will not adequately prepare me.  
-The instructors will not adequately prepare me.  
-Other – Please Explain [Open Text] |
| 44. Why do you think the LLLT qualifying exam was challenging? (Check all that apply.) (If applicable) | -The exam is designed to be challenging.  
-My other work commitments interfered with the time I needed to study.  
-My personal commitments interfered with the time I needed to study.  
-My financial resources did not allow me the time I needed to study.  
-The classes did not adequately prepare me.  
-The instructors did not adequately prepare me.  
-I do not think the exam was challenging. Please Explain [Open Text]  
-Other – Please Explain [Open Text] |
45. Do you plan to take the LLLT qualifying exam again? (If applicable)
- Yes
- Maybe
- No

46. Do you have a business plan? (If applicable)
- Yes, I have a business plan.
- Yes, I am working on making a business plan.
- No, but I plan to make a business plan.
- No, and I have no plans to make a business plan.

47. How many clients do you expect to serve each month (approximately)? (If applicable)
- 60+
- 31-60
- 16-30
- 1-15
- Will vary too widely to approximate
- Don’t Know
- Other – Please Explain [Open Text]

48. How much time do you think you will spend on each client’s case (approximately)? (If applicable)
- 10+ hours
- 6-10 hours
- 1-5 hours
- Less than 1 hour
- Will vary too widely to approximate
- Don’t Know
- Other – Please Explain [Open Text]

49. How do you plan to meet potential clients? (Check all that apply.) (If applicable)
- Referrals from law firms
- Referrals from non-profits
- Referrals from government offices
- Referrals from courthouses
- Referrals from non-law businesses (e.g. doctors, grocery stores)
- Advertisements – Where (if known)? [Open Text]
- Walk-In Traffic – From Where (if known)? [Open Text]

50. What proportion of your earnings do you expect will go to pay taxes and business expenses? (If applicable)
- 66%+
- 34-66%
- 0-33%
- Don’t Know
- Other – Please Explain [Open Text]

51. Do you plan to have any of the following? (Check all that apply.) (If applicable)
- An office
- A clerical assistant
- A copy machine
- Health benefits
- Paid leave benefits
<table>
<thead>
<tr>
<th>Question</th>
<th>Options/Explanations</th>
</tr>
</thead>
<tbody>
<tr>
<td>52. How do you think you would pay for this? (Check all that apply.)</td>
<td>-My own savings&lt;br&gt;-Team up with a law firm&lt;br&gt;-Team up with a non-profit&lt;br&gt;-Team up with a non-law business&lt;br&gt;-Small business loans&lt;br&gt;-Investors&lt;br&gt;-Don’t Know&lt;br&gt;-Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>53. What will you do in the event that a client does not pay you? (Check all that apply.)</td>
<td>-Follow up with the client by letter, phone, or e-mail&lt;br&gt;-Refer the client to a debt collection agency&lt;br&gt;-File a claim against the client&lt;br&gt;-Depends on the case - Explain (if known) [Open Text]&lt;br&gt;-Don’t Know&lt;br&gt;-Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>54. Have you received, or do you plan to receive, payment for your apprenticeship hours?</td>
<td>-Yes, for all of my hours&lt;br&gt;-Yes, for some of my hours&lt;br&gt;-No&lt;br&gt;-Don’t Know&lt;br&gt;-Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>55. Is anyone helping you pay for your tuition while you train to become an LLLT? (Check all that apply.)</td>
<td>-Spouse or Partner&lt;br&gt;-Family member other than spouse/partner&lt;br&gt;-Friend&lt;br&gt;-No&lt;br&gt;-Other – Please Explain [Open Text]&lt;br&gt;-Don’t Wish to Share</td>
</tr>
<tr>
<td>56. Is anyone helping you pay for your living expenses while you train to become an LLLT? (Check all that apply.)</td>
<td>-Spouse or Partner&lt;br&gt;-Family member other than spouse/partner&lt;br&gt;-Friend&lt;br&gt;-No&lt;br&gt;-Other – Please Explain [Open Text]&lt;br&gt;-Don’t Wish to Share</td>
</tr>
<tr>
<td>57. Are you using any of the following to finance your educational or living expenses during your LLLT trainings? (Check all that apply.)</td>
<td>-Scholarships (merit or need-based)&lt;br&gt;-Grants (federal or school-based)&lt;br&gt;-Private student loans&lt;br&gt;-Federal (public) student loans&lt;br&gt;-Personal income or savings&lt;br&gt;-Don’t Know&lt;br&gt;-Don’t Wish to Share</td>
</tr>
<tr>
<td>58. How easy or challenging do you expect that it will be to repay these loans?</td>
<td>-Very Challenging&lt;br&gt;-Challenging</td>
</tr>
<tr>
<td>Question</td>
<td>Options</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>59. Why do you think it will be easy or very easy to repay these student loans? (Check all that apply.) (If applicable)</td>
<td>- I have a reasonable interest rate on my loans.</td>
</tr>
<tr>
<td></td>
<td>- I did not take out very much in loans.</td>
</tr>
<tr>
<td></td>
<td>- I will have good job prospects as an LLLT.</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>60. Why do you think it will be challenging or very challenging to repay these student loans? (Check all that apply.) (If applicable)</td>
<td>- The interest rates on my loans are high.</td>
</tr>
<tr>
<td></td>
<td>- I had to take out a lot in loans.</td>
</tr>
<tr>
<td></td>
<td>- I am not sure if I will be able to find enough work as an LLLT.</td>
</tr>
<tr>
<td></td>
<td>- Other – Please Explain [Open Text]</td>
</tr>
<tr>
<td>61. What is your sex?</td>
<td>- Male</td>
</tr>
<tr>
<td></td>
<td>- Female</td>
</tr>
<tr>
<td></td>
<td>- Other – Please specify (if you wish to identify) [Open Text]</td>
</tr>
<tr>
<td>62. What is the highest level of education you completed before deciding to become an LLLT?</td>
<td>- Did not complete high school</td>
</tr>
<tr>
<td></td>
<td>- High School/GED</td>
</tr>
<tr>
<td></td>
<td>- Some College</td>
</tr>
<tr>
<td></td>
<td>- Associate’s Degree</td>
</tr>
<tr>
<td></td>
<td>- Bachelor’s Degree</td>
</tr>
<tr>
<td></td>
<td>- Graduate Degree</td>
</tr>
<tr>
<td></td>
<td>- Don’t Know</td>
</tr>
<tr>
<td>63. What is your race/ethnicity? (Check all that apply.)</td>
<td>- Hispanic or Latino</td>
</tr>
<tr>
<td></td>
<td>- White or Caucasian</td>
</tr>
<tr>
<td></td>
<td>- Black or African-American</td>
</tr>
<tr>
<td></td>
<td>- Asian</td>
</tr>
<tr>
<td></td>
<td>- Pacific Islander</td>
</tr>
<tr>
<td></td>
<td>- Native American</td>
</tr>
<tr>
<td></td>
<td>- Alaskan Native</td>
</tr>
<tr>
<td></td>
<td>- Other – Please specify (if you wish to identify) [Open Text]</td>
</tr>
<tr>
<td>64. Please tell us anything else you think we should know about becoming an LLLT or about this survey.</td>
<td>[Open Text]</td>
</tr>
</tbody>
</table>