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December 12, 2024

William R. Bay
President of the American Bar Association (ABA)
wbay@thompsoncoburn.com

Dear President Bay,

On behalf of the Association of Professional Responsibility Lawyers (APRL), I enclose APRL's proposed revisions to Model Rule 5.4 (Professional Independent of a Lawyer) and the supporting report of APRL's Future of Lawyering Subcommittee (Report). APRL believes that there is a critical need for changes to this ethics rule to address the continued, inevitable involvement of non-lawyers in legal delivery systems while maintaining regulations that protect consumers. APRL's Board of Directors, identified on this letterhead, voted unanimously to adopt the proposed revised rule and authorized public dissemination of the Proposed Rule and Report.

APRL is an association of over 450 lawyers, law professors, state bar counsel, in-house counsel, judges, and others throughout the United States dedicated to servicing clients and the legal profession in the areas of legal ethics, professional liability, risk management, lawyer discipline, and all other facets of the law of lawyering. Its Future of Lawyering (FOL) Subcommittee members, as identified in Appendix A to the enclosed Report, crafted the revised Model Rule 5.4 in thoughtful consideration of the current state of the legal profession, the needs of consumers, and the concerns expressed by the ABA and various US jurisdictions regarding the sharing of legal fees with non-lawyers. The Report details the history of existing Rule 5.4, discusses the expressed and implied exceptions to the rule that presently exist, and explains how the current rule fails to address the contemporary and ever-evolving practice of law.

APRL agrees with the assessment you shared at the ABA's August 2024 Annual Meeting: "We face a new set of challenges that require a different approach."[1] APRL believes its revised Rule 5.4 offers a different approach that is unquestionably needed and should be adopted. The amended Rule 5.4 would allow lawyers to share fees with nonlawyers as long as the lawyer maintains professional judgment (as required under Rule 2.1), adheres to the duty to supervise (as required by Rule 5.3), and the total fees charged to the client remain reasonable (as required by Rule 1.5). It also requires that whenever a lawyer and a

[1] Quote stated in ABA Journal article by Danielle Braff entitled, "Incoming ABA President Bill Bay calls on legal profession to 'stand together'[,]" dated August 5, 2024.

non-lawyer individual or entity outside of the lawyer's law firm intend to share legal fees, the client must consent. APRL's proposal further acknowledges the jurisdictions that regulate Alternative Business Structures (ABS) and provides other jurisdictions the flexibility to consider future state amendments while still requiring compliance with the jurisdiction's registration requirements.

We hope to garner support for this proposal not only within the ABA but also in individual United States jurisdictions independently willing to consider changes to their own versions of Rule 5.4. To this end, APRL will also distribute its rule revision proposal and Report to the individual jurisdictions.

Please do not hesitate to contact me with any questions you may have.

Thank you for your time, consideration, and service to our profession.

Sincerely,

KBasner

Kendra L. Basner
APRL President 2024-2025
O'Rielly & Roche, LLP
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ASSOCIATION OF PROFESSIONAL RESPONSIBILITY LAWYERS (APRL)

Future of Lawyering Subcommittee's Report
Regarding Proposed Revisions to ABA Model Rule 5.4[1]

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Appendix A – APRL's Future of Lawyering Committee Members

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[1] The members of the subcommittee involved in the drafting of the proposed rule and of this report are: Kendra Basner (San Francisco, CA), Eric Cooperstein (Minneapolis, MN), Anthony Davis (New York, NY), Craig Dobson (New York, NY), Brian S. Faughnan (Memphis, TN), Jan Jacobowitz (Miami, FL), David Majchrzak (San Diego, CA), Tyler Maulsby (New York, NY), Sari Montgomery (Chicago, IL), Jayne Reardon (Chicago, IL), Lynda Shely (Scottsdale, AZ), and Hope Todd (Washington, D.C.). See Appendix A for the complete list of APRL's Future of Lawyering Subcommittee members. The views expressed herein are solely those of the authors as approved for publication by the APRL Board and the Future of Lawyering subcommittee and do not necessarily reflect the views of any other organization, employer, or affiliated entity.

I. Executive Summary

The American Bar Association (ABA) adopted Model Rule 5.4 in 1983, prohibiting fee-sharing between lawyers and non-lawyers. Most U.S. jurisdictions follow Model Rule 5.4's ban on sharing legal fees with non-lawyers and non-lawyer ownership of law firms engaged in legal practice. In fact, for decades Washington D.C. stood alone as the sole jurisdiction within the United States that allowed non-lawyer ownership and fee-sharing albeit under narrow circumstances.

More recently, in 2020, Arizona and Utah reconsidered the 5.4 prohibitions. Utah established a regulatory sandbox to explore the sharing of fees. Arizona eliminated Rule 5.4 in 2021 and established an alternative business structures option. Three years of data from Utah and Arizona evidence no adverse effects on the legal profession or consumers thereby paving the way for both the ABA and state regulators to reconsider and remove this traditional ban.

As former ABA President Judy Perry Martinez aptly stated, "We need new ideas. We're one-fifth into the 21st century, yet we continue to rely on 20th-century processes, procedures, and regulations."

The **Association of Professional Responsibility Lawyers** (APRL) proposal responds to the call for new ideas and proposes to amend Rule 5.4 to allow lawyers to share fees with nonlawyers as long as the lawyer maintains their professional judgment (as is required of all lawyers at all times by Rule 2.1), adheres to the duty to supervise (as is required of lawyers by Rule 5.3), and the total fees charged to the client remain reasonable (as is required of lawyers by Rule 1.5).

APRL's proposal also requires that whenever there is to be fee-sharing between a lawyer and an entity or individual who is not an employee of the lawyer's law firm, then the client must provide consent for it to be permissible. The addition of client consent not only largely models itself after the existing rule regarding fee sharing among lawyers in separate law firms, but also provides a veto power to any client who truly cares not just about how much legal services cost them but about who receives such payments.

Additionally, APRL's proposal acknowledges the states that regulate alternative business structures through registration requirements and provides the option for future state amendments to Rule 5.4 by requiring compliance with any state-level registration requirements.

The Association of Professional Responsibility Lawyers is an independent association of over 400 private practice attorney, large law firm in-house risk management and general counsel, state bar regulators, general counsel to non-lawyer owed businesses, and law professors who grapple with legal ethics issues every day in a variety of settings. The Association also includes lawyers who practice law in Canada and the United Kingdom and have experienced firsthand that the legal profession has

not collapsed or been compromised when lawyers are permitted to share legal fees with non-lawyers.

APRL lawyers have provided advice to lawyers seeking to both innovate in the delivery of legal services and comply with Rule 5.4. APRL lawyers have also advised and counseled others outside of our profession who have sought to innovate in ways where it has been less than clear whether lawyers can participate in light of Rule 5.4. Rule 5.4's imposition on innovation has also been discussed and debated at numerous legal seminars.

Thus, APRL members have first-hand knowledge on how removing the barrier imposed by restrictions on the sharing of fees with non-lawyers would not only drive innovation in the legal profession, but also could create new tools for addressing the unmet need for legal services. Rapid changes in technology over the past two decades and diversification in the delivery of legal services compel changes to the rules on fee sharing that will not only benefit lawyers but also will advance the legal profession's role in providing assistance to those in need while adequately protecting consumers of legal services.

II. Why Lawyers and Clients Alike Stand to Benefit From Change.

A significant disconnect exists in the United States between people needing legal assistance and the availability or affordability of lawyers. This gap, often referred to as a call for "access to justice" or "access to legal services," is well-documented by multiple stakeholders:

- Many Americans cannot afford to retain lawyers when they need legal services.
- Even more people are financially unwilling to pay current lawyer rates for legal services.
- Many lawyers operate below full capacity in terms of workload.[2]

In other industries and professions, financially motivated actors often bridge such supply-demand gaps by pairing willing consumers with willing providers for a fee. Consumers and providers may gladly pay a third party for this connection service, as they may lack the time or skill to find each other independently. Third parties can become highly efficient and effective in this task. However, the legal profession's ethics rules prohibiting fee-sharing with non-lawyers prevent such market-based solutions for consumers seeking legal services.

[2] See Clio's 2024 Legal Trends Report, available at https://www.clio.com/resources/legal-trends/; generally S. Weissman et al., "The World Needs More Lawyers," Regulatory Transparency Project of the Federalist Society (2023) available at https://rtp.fedsoc.org/paper/the-world-needs-more-lawyers; Hon. Neil M. Gorsuch, "Bridging the Affordability Gap, 45-APR Wyo. Law. 16, 17 (2022); Legal Services Corp., The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americas) (Mary C. Slosar et al. eds, 2022); Rebecca L. Sandefur, Access to What?, 148 Daedalus 49 (2019); Lincoln Caplan, The Invisible Justice Problem, 148 Daedalus 19 (2019).

The case of Avvo Legal Services illustrates this point. Avvo created a lawyer search and rating platform that initially only allowed visitors to post questions on the site, which lawyers may choose to answer. Avvo later added features that allowed consumers to hire lawyers at affordable rates. For a time, the platform successfully connected willing lawyers with interested consumers, resulting in high satisfaction levels for all participants. Consumers paid a fee to Avvo, and Avvo retained a portion of that fee as payment for the use of the platform and provided the remainder of the fee to the lawyer. In other words, the fee paid by the consumer was shared between Avvo and the lawyer. Consumers who used the platform did not object to the fee being shared in this manner. However, state bar ethics opinions condemned lawyers' participation in this innovative platform, ultimately forcing Avvo to abandon this endeavor.[3]

These ethics opinions relied primarily on the theory that by sharing fees with a nonlawyer (Avvo), the arrangement jeopardized the lawyers' ability to exercise their independent professional judgment in advising and representing their clients. No known data supports this assumption. APRL rejects the premise that a lawyer, merely because they may share 10% of a fee ultimately paid to them by a client with someone who helped connect them with the client, will be unable to exercise their professional judgment consistent with their ethical obligations. Because of other exceptions long deemed acceptable by the attorney ethics rules, tens, if not hundreds, of thousands of lawyers in our nation navigate more difficult economic circumstances on a daily basis. In fact, lawyers in the United States have been successfully maintaining their independent judgment, adhering to their ethical duties, and, in some situations, actually sharing fees with non-lawyers for decades so long as certain explicit or implied allowances exist. Some such circumstances include but are certainly not limited to, plaintiff's attorneys working on a contingent fee basis, lawyers handling legal matters funded by a third-party payor, in-house corporate counsel whose sole source of salary comes from their client-employer, or defense counsel who is paid by an insurance company to represent the interests of an insured. Our profession has a wealth of experience in demonstrating that lawyers can retain their independent professional judgment in the face of strong economic interests of others impacted by the representation.

To be sure, exercising independent professional judgment is a core value of the legal profession, embodied in ABA Model Rule 2.1 (adopted in most jurisdictions): "A lawyer shall exercise independent professional judgment and render candid advice" when representing a client. Lawyers already face, and navigate, various financial

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[3] Indiana Supreme Court Disciplinary Comm'n, Op. 1-18 (April 9, 2018); Utah State Bar Ethics Advisory Opinion Committee, Opinion No. 17-05 (Sept. 27, 2017); New York State Bar Ass'n Committee on Professional Ethics, Op. 1132 (Aug. 8, 2017); New Jersey Advisory Committee on Professional Ethics/Committee on Attorney Advertising/Committee on the Unauthorized Practice of Law, ACPE Joint Opinion (June 2017); Pennsylvania Bar Ass'n Formal Op. 2016-200 (Sept. 2016); The Supreme Court of Ohio: Board of Professional Conduct, Opinion No. 2016-3 (June 2016); South Carolina Bar Ethics Advisory Opinion 16-06 (2016).

pressures to their independent professional judgment, whether it be from the pressures of law firm owners to generate income or the lawyers' own financial needs. Yet the Rules of Professional Conduct do not regulate the inner financial workings of law firms. No evidence suggests that lawyers would be any more vulnerable to improper influence by non-lawyer constituents than they already face from lawyer colleagues as well as other outside, non-lawyer influences that are currently accepted by the profession such as those mentioned above. No rationale explains how a lawyer's professional independence is strong enough to repel influence by other lawyers (and non-lawyers under certain circumstances) but so fragile that it would crumble in the face of pressures by nonlawyers.

Moreover, lawyers' largest and most forceful constituency are their clients, most of whom are nonlawyers and who regularly press lawyers to take aggressive positions in litigation, create roadblocks to discovery, delay proceedings, etc. Lawyers exercise independent professional judgment every day despite the pressures placed upon them by the people and entities paying the lawyers' bills. If lawyers can withstand those pressures; the opposite application to fee sharing appears to be a distinction without a difference.

Removing the ethical restriction on lawyers working with non-lawyers to provide legal services and allowing non-lawyer ownership interests in law firms could lead to expanded access to legal services. Working with nonlawyers who have experience and expertise in technology, marketing, advertising, business management, and finances, among other areas, could bring to the table new ideas, talent, focused hands [manpower], and, yes, perhaps capital, ultimately allowing lawyers to leave those responsibilities to such professionals so the lawyers can refocus on providing quality legal services. For example, membership in organizations like AAA or AARP could provide its members ready access to lawyers for specific legal matters. Large subscription/membership companies might bundle access to lawyers into their business models, such as Amazon Prime offering legal services at affordable rates to members. Along those same lines, imagine if lawyers could pay non-lawyer advertisers and marketers, for instance, a portion of the legal fees generated from a successful advertisement (similar to a contingency fee) instead of paying advertising and marketing costs in advance with only the mere hope that the advertising will be effective in bringing in clients. Such an option could help many lawyers, particularly solo lawyers and small firms, who simply don't have funds available to invest in advertising (or other such non-lawyer services) but are desperately in need of generating additional work to keep their practice afloat.

Furthermore, lifting the restriction on fee sharing could facilitate the creation of technology platforms that provide additional opportunities for lawyers to expand their client base and increase efficiency. Currently, developing such platforms is generally only accessible to those with significant capital. Most law firms tend not to retain capital in the firm from year to year, favoring year-end distributions of profits to the owners of the firms. Allowing fee-sharing with non-lawyers would enable lawyers to partner with technology experts in exchange for equity, potentially leading to tools

that automate tasks or add value to a practice and may lower the firm's overhead expenses.

The current restrictions on non-lawyer ownership of law firms limit lawyers' access to capital for investment and growth. When only lawyers can invest or have an ownership share, law firms' only source of capital comes from equity stakeholders. This often forces lawyers to turn to expensive litigation funding alternatives in the litigation context. In the transactional context, fewer funding options leave clients with fewer choices when selecting a lawyer.

Moreover, legal education often doesn't include guidance on running a business, and the prevalence of the billable hour doesn't inherently drive efficiency. The quantity over quality business model that so many lawyers and law firms feel forced to implement just to make ends meet isn't in the best interest of anyone. The ethical restrictions prevent firms from attracting people with expertise in efficiently running a consumer business because they're limited in how they can compensate these individuals.

Eliminating the prohibition on sharing fees with non-lawyers could enhance access to more effective and efficient legal services for consumers while providing additional opportunities for lawyers. This change wouldn't diminish lawyers' duty to exercise professional independent judgment, which Rule 2.1 preserves. Therefore, the fear that lawyers' independent professional judgment will erode shouldn't stifle efforts to find innovative ways to benefit both lawyers and clients.

III. Historical Context for Prohibition on Sharing Fees with Non-Lawyers

The prohibition on sharing fees with nonlawyers has historical roots that are intertwined with the development of rules and statutes prohibiting the unauthorized practice of law (UPL). Both concepts highlight the tension between policies ostensibly protecting the public and allegations that the legal profession has designed rules to protect its own turf.

England enacted one of the first laws that addressed the unauthorized practice of law. A 1292 statute empowered the Lord Chief Justice 'to appoint a certain number of attorneys and lawyers of the best and most apt for their learning and skill, who might do service to his court and people; *and that those chosen only and no other, should practice.*'[4] Centuries later, a 1729 Act of Parliament prohibited nonlawyers from using a lawyer's name for profit.

[4] Jan L. Jacobowitz & Peter R. Jarvis, Unauthorized Practice or Untenable Prohibitions: Refining and Redefining UPL, 13 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 283, 289 (2023) (internal citations omitted) (emphasis added).

Interestingly, until the Civil War, America had few significant restrictions on admission to law practice. [5] This seemingly casual attitude stemmed from the following logic:

> An individual with practical experience and a frontier spirit but no law school education (e.g., Abraham Lincoln) could plainly have more skill and insight than someone who was merely theoretically trained. Moreover, nineteenth-century state bars were often reluctant to require formal legal education as a requisite for admission to practice law because such a requirement could render the practice of law "accessible to only elites." Thus, law school, a law degree, and formal theoretical education about the practice of law were not universally thought necessary to imbue individuals with the competence required to provide legal information and advice to clients. [6]

In the early 1800s, English courts applied the 1729 Act to invalidate a lawyer's agreement to pay his clerk one-third of the law firm's profits as salary. This concept crossed the Atlantic and reached the U.S. Supreme Court after the Civil War. In *Meguire v. Corwine,* the plaintiff, a nonlawyer, had helped the defendant secure an appointment as special counsel for the government in a valuable case. The defendant, in turn, had promised to pay the plaintiff half of the legal fees that the defendant received for pursuing the case. In a dispute between the two over the amount defendant should pay to plaintiff, the Court denounced fee-sharing agreements as "forbidden by a statute or condemned by public policy" and "clearly illegal." [7]

Oddly, despite the low bar for admission to practice law, cases prohibiting lawyers from sharing fees with nonlawyers continued to emerge. In 1908, the American Bar Association (ABA) codified its first set of Canons. Canon 28 prohibited lawyers from paying nonlawyers for referring cases.

The late 1800s had seen a proliferation of lawyers: from approximately 20,000 lawyers in 1850 to about 114,000 lawyers at the turn of the century. Along with increasing numbers of lawyers came the establishment of bar associations. Initially serving as social organizations, by the early 1900s, these associations began engaging in advocacy, focusing on unauthorized practice of law. Some analyses conclude that these initiatives aimed more at erecting barriers to entry to protect the professional elite than increasing the bar's professional status.[8]

A convergence of UPL and fee-sharing issues emerged as state bars objected to the practice of law through corporations. The corporation became both the nonlawyer

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[5] Jacobowitz and Jarvis*,* at 290.

[6] Id.

[7] Roy D. Simon Jr., *Fee Sharing Between Lawyers and Public Interest Groups*, 98 Yale L.J. 1069,1077 (1989) (internal citations omitted.).

[8] Jacobowitz and Jarvis*,* .at 292.

impermissibly sharing fees and an entity engaged in unauthorized practice of law. States passed legislation prohibiting corporations from practicing law, and courts determined that the attorney-client relationship couldn't exist between a corporate-employed attorney and the corporation's client.

> The relation of attorney and client. . . cannot exist between an attorney employed by a corporation to practice law for it, and a client of the corporation, for he would be subject to the directions of the corporation and not to the directions of the client. . .. The corporation would control the litigation, *the money earned would belong to the corporation* and the attorney would be responsible to the corporation only.[9]

In response to these developments, the ABA established a special committee to propose amendments to the Canons. The resulting Canons 33, 34, and 35, adopted in 1928, prohibited partnerships with non-lawyers, fee division except with another lawyer, and the control of legal services by lay agencies.

These Canons formed the basis for the 1969 ABA Model Code, which in turn laid the groundwork for today's ABA Model Rules of Professional Conduct. Despite multiple reviews and recommendations for change over the years, including the Kutak Commission's proposed Rule 5.4 in 1983 that would have permitted fee-sharing with non-lawyers. Particularly telling was the 1983 Kutak Commission's comment that

> To prohibit all intermediary arrangements is to assume that the lawyer's professional judgment is impeded by the fact of being employed by a lay organization .... The assumed equivalence between employment and interference with the lawyer's professional judgment is at best tenuous .... Applications of unauthorized practice principles, only tenuously related to substantial ethical concerns raised by intermediary relationships, may be viewed as economic protectionism for traditional legal service organizations ....
>
> The exceptions to per se prohibitions on legal service arrangements involving nonlawyers have substantially eroded the general rule, leading to inconsistent treatment of various methods of organization on the basis of form or sponsorship. Adherence to the traditional prohibitions has impeded development of new methods of providing legal services.[10]

Similarly, the ABA's Multijurisdictional Commission's report in 2000 proposed that lawyers be

> permitted to share fees and join with ,nonlawyer professionals in a practice that delivers both legal and nonlegal professional services . . ., provided that the lawyers have the control and authority necessary to

[9] *In re Co-operative Law Company* 198 N.Y. 479, 95 N.E. 15 (1910):

[10] Art Lachman, Lawyer Professional Independence & Rule 5.4: An Overview, at 5, ABA National Conference on Professional Responsibility, Vancouver, BC (May 2019).

> assure lawyer independence in the rendering of legal services…This Recommendation must be implemented in a manner that protects the public and preserves the core values of the legal profession, including competence, independence of professional judgment, protection of confidential client information, loyalty to the client through the avoidance of conflicts of interest, and pro bono publico obligations.[11]

The report caused animated debate, but no changes to the ABA position.

Since then, the ABA has continued to fail in any effort to resolve the fee-splitting issue. In 2022, ABA Resolution 402 reaffirmed Rule 5.4 and the policies supporting the prohibition on fee-sharing with nonlawyers. The resolution argued that innovation can occur without abandoning core values that ensure the practice of law remains a learned and independent profession serving the public and defending justice.

Despite all ABA rule revisions since 1908, the fundamental prohibitions in the 1928 Canons remain, primarily in today's Model Rule 5.4. This persistence occurs despite the evolution of business, technology, and the growing, desperate need for increased access to legal services for the public – a public apparently neither served nor protected by Rule 5.4.

IV. Evidence Shows Naysayer Concerns Are Invalid

A. Lawyer Independence Can Be Maintained When Non-Lawyers Are Involved

Model Rule 5.4's raison d'être remains the protection of lawyers' professional independence of judgment. Rule 5.4 approaches this solely through an economic lens, prohibiting or restricting the sharing legal fees with nonlawyers, allowing nonlawyer equity interests in firms, or permitting nonlawyers to occupy director or officer roles.

For Model Rule 5.4 jurisdictions, this creates a single business model: only lawyers may profit from a firm's success or make significant business decisions, including those unrelated to client services. This attempt to minimize situations where lawyers might prioritize economic incentives over clients' best interests ignores the reality of in-house legal departments, where nonlawyers routinely oversee lawyers without such restrictions.

B. Current Exceptions to Rule 5.4

Rule 5.4's requirements and related ethical opinions limit not only the sharing of legal fees directly received from clients but also the sharing of law firm revenue or profits with nonlawyers. However, practical necessities have led to many exceptions to this ban over the years, some of which are inconsistent with each other.

For example, Model Rule 5.4 contains four exceptions adopted by most states:

[11] Lachman, at 8.

- Allowing nonlawyer employees to receive profit-sharing compensation (but not a share of the legal fees from a particular case).
- Permitting fee-sharing with nonprofit organizations. This permits bar associations, which are not licensed professional firms for the practice of law, to operate lawyer referral services in which the lawyers promise to share future legal fees with the bar association, whereas for-profit lawyer referral services and lead-generation services are prohibited unless they follow the strict restrictions created by the Bar, are approved by the Bar, and ultimately share fees with the Bar.
- Allowing payment to a lawyer's estate after death.
- Permitting the purchase of a deceased, disabled, or disappeared lawyer's practice.

Other exceptions and contradictions have emerged:

- Lawyers can pay a percentage of legal fees to nonlawyer credit card providers, but they may not enter into a lease with nonlawyer landlords for office space that includes a percentage of law firm revenue in the rent calculation (a common model for retail businesses).
- Captive law firms are assumed to be able to maintain independent judgment in representing insureds, despite 100% of the lawyer's cases being referred to them by nonlawyer insurers.
- Lawyers are permitted to enter into litigation financing arrangements with third party, nonlawyer lenders that require the lawyers to guarantee repayment of the loans.
- Lawyers and law firms may enter into loan arrangements with banks that include covenants on what the lender may do if the borrower defaults. These provisions frequently give the lender far greater powers over the practice of law in the event of even technical defaults than nonlawyer shareholders would have in a corporate entity.
- Lawyers may accept payments of litigation fees and costs from other third-party nonlawyers.
- Some jurisdictions allow lawyers to share fees with nonlawyer-owned law firms in other jurisdictions where such sharing is permitted.

These exceptions demonstrate the inconsistencies in applying Rule 5.4 and suggest that the concerns about the "fragility" of lawyer independence may be overstated.

C. Rule 5.4 Does Not Hold Up the Sky

Defenders of Rule 5.4 restrictions tend to approach the rule from a perspective that the rule is so critical that any relaxation of the rule will be catastrophic, that the sky will surely fall and repercussions of sharing fees with nonlawyers will be impossible

to control. A review of the jurisdictions that have experimented with nonlawyer fee sharing reveals no such doomsday scenario.

1. District of Columbia

D.C. amended its version of Rule 5.4 in 1991 to allow nonlawyers performing professional services to hold financial interests or managerial authority in law firms. For instance, a D.C. law firm may have a partner who is a lobbyist, accountant, or social worker, electrical engineer, or e-discovery expert. D.C. firms also may make a nonlawyer CEO, CIO, or CFO a shareholder in the firm, thereby improving the likelihood of attracting and retaining quality personnel. D.C. doesn't permit "passive" investment/ownership (unlike England and Australia, discussed below). The rule has been in effect for thirty years and yet there's no indication that firms with nonlawyer partners have more bar complaints or that nonlawyer partners have inhibited lawyers' independent professional judgment.

The ABA perhaps tacitly acknowledged that nonlawyer ownership of law firms in D.C. did not impede lawyers' professional judgment when it issued Formal Opinion No. 13-464, "Division of Legal Fees with Other Lawyers Who May Lawfully Share Fees with Nonlawyers." That opinion held that lawyers in jurisdictions following the Model Rules version of 5.4 did not violate that rule in sharing fees with a D.C. law firm that had nonlawyer owners. Several state bar associations have concurred with Opinion 13-464.

This marginal concession continued with Formal Opinion 21-499 which interpreted Model Rule 5.4 to allow a lawyer to "passively invest in a law firm that includes nonlawyer owners … operating in a jurisdiction that permits ABS entities, even if the lawyer is admitted to practice law in a jurisdiction that does not authorize nonlawyer ownership of law firms." Georgia has adopted a revised version of its Rule 5.4, and New York has since issued an ethics opinion, permitting lawyers in their states to conduct business with Alternative Business Structures in other states, such as Arizona and Utah.[12]

2. England, Wales, and Australia

The Legal Services Act of 2007 authorized nonlawyer ownership for British law firms. The first nonlawyer-owned law firms were approved in England in 2012. All law firms in England and Wales are required to register with the Solicitors Regulation Authority (SRA) and there is an application/disclosure requirement for Alternative Business Structure (ABS) law firms that have nonlawyer ownership to assure that the firm that is providing legal services disclose who will have strategic management control in the law firm and that the firm employs a lawyer who has at least three years of experience. About half of all new law firms in England are ABS firms, with no noticeable increase in ethics complaints.

[12] *See* Ga. R. Prof. Cond. 5.4(e) and (f); New York City Bar Ass'n Op. 2020-1.

Similarly, Australia has permitted nonlawyer ownership of law firms since 2007, with at least five firms publicly traded on the Australian Stock Exchange, again without increased legal ethics violations. Incorporated Legal Practices (ILPs) must disclose which of its services are legal services and which are nonlegal services; designate an "Authorized Principal" who holds a certificate to supervise the legal services and is a director of the firm; and maintain liability insurance.[13]

3. Utah

In 2020, Utah created a "regulatory sandbox" to test various legal service delivery options. Participants include businesses partially or completely owned by nonlawyers, lawyers partnering with nonlawyers providing ancillary services, and nonlawyers providing legal services under strict regulation. The Sandbox is approved to operate for seven years, gathering data about the participants and reporting on how the participants have managed to deliver legal services. Applicants to the Sandbox include businesses that are partially or completely owned by nonlawyers and legal services delivered by lawyers, businesses where lawyers partner with nonlawyers who provide ancillary services that assist legal clients (such as accountants and financial planners), and businesses where nonlawyers provide legal services. This last category of legal service model is the most highly regulated to assure that consumers of the legal services are still the recipients of competently performed legal work.

Applicants to the Sandbox must disclose all controlling persons, who is providing financing, and how the applicant plans to reach legal consumers "currently underserved by the legal market." Disbarred attorneys may not serve as a controlling person or manager or director of legal services in a Sandbox applicant.

Participants in the Sandbox must provide regular reports to the Innovation Office and even undergo auditing of their services if nonlawyers (including technology) are providing the legal work. They are subject to compliance with both the Rules of Professional Conduct and Sandbox regulations overseen by the Utah State Bar, which has enforcement authority for complaints involving Sandbox participants.

As of January 2024, the sandbox had 51 authorized entities, with minimal consumer complaints and satisfactory service quality assessments. Examples of authorized entities approved in U.S.:

1. LawHQ**:** Formed to raise capital to develop an app that locates plaintiffs and collects evidence for claims against phone spammers.
2. Law on Call: A subsidiary of an established registered agent company, offering small business clients access to a team of lawyers through a $9 subscription fee.

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[13] *See* Information Kit, Incorporated Legal Practices (Queensland Law Society), available at: https://www.qls.com.au/getattachment/a3d3ff48-dfaf-40c0-ae67-49a179a53fd6/doc20160607_ilp_infokit_fnl.pdf

3. Off the Record: Connects consumers who have received traffic citations to lawyers who advise them on challenging their tickets.
4. Rasa Legal: a beneficial corporation that uses AI-enabled software and nonlawyer providers to help residents of Utah determine whether they are eligible to expunge their criminal records and then execute the process.[14]

Quality assessment (audits) data from the January 2024 Report concluded "there was no evidence of material or substantial harm to consumers, and services were found to be at least satisfactory by the Office, the LSI Committee, and independent lawyer auditors."[15]

4. Arizona

Arizona eliminated Rule 5.4 entirely in January 2021, allowing lawyers to share legal fees with nonlawyers in both traditional and Alternative Business Structure (ABS) law firms. ABS firms must be licensed and meet specific requirements, including:

- File a detailed application disclosing everyone who will hold a ten percent or greater "economic interest" in the firm. Applicants must undergo extensive background investigations into each authorized person and disclose whether the firm will have outside financing.
- Have an Arizona-admitted lawyer serve as the "Compliance lawyer" who takes responsibility for overseeing the firm's legal services and compliance with the Arizona Code of Judicial Administration for ABS law firms.[16] (ACJA 7-209)
- Disclose how the firm will maintain the confidentiality of client data, check for conflicts, and comply with the Rules of Professional Conduct and ABS Code of Conduct, and trust accounting requirements.
- Describe the practice areas contemplated by the firm and how the firm will support the regulatory objectives of the ABS program (including, for instance, promoting public interest and access to legal services, encouraging an independent, strong, and diverse legal profession, and maintaining adherence to professional standards).
- Pay a filing fee to support the costs of investigation and review of the application.

The Court's Licensing Division staff vets each application. Next, the Court's ABS Committee interviews the applicants. Following approval by that committee, the

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[14] D. Engstrom, *et. al.,* "Legal Innovation After Reform: Evidence from Regulatory Change" (Sept. 2022) (available at https://law.stanford.edu/publications/legal-innovation-after-reform-evidence-from-regulatory-change/) (last visited May 17, 2023).

[15] *See* Activity Report: January 2024, Utah Innovation Office at 7, available at: https://utahinnovationoffice.org/wp-content/uploads/2024/03/January-2024-Activity-Report.pdf

[16] Arizona Code of Judicial Administration (ACJA), 7-209.

Arizona Supreme Court reviews the applications. Among the criteria that may result in the denial of an application is a proposed ownership interest by a disbarred lawyer.

A nonlawyer may own 100 percent of an ABS in Arizona. Unlike DC Rule 5.4, an Arizona ABS law firm may have "passive" investment/ownership by another entity or company. Licensees also must submit an annual renewal application and must comply with the Rules of Professional Conduct and the ABS Code of Conduct. The Compliance Lawyer and Designated Principal have mandatory reporting obligations. Since the inception of the ABS law firm program, only one licensee has been subject to a Reprimand for violation of the Rules and Code. Complaints about ABS law firms are investigated and prosecuted by the State Bar of Arizona, just like complaints about lawyers.

Unlike Utah's Regulatory Sandbox, Arizona ABS law firms may only deliver legal services through lawyers. Nonlawyers in an ABS cannot provide legal services.

As of October 2024, there were over 100 licensed Arizona ABS law firms. Arizona lawyers in traditional firms may also share legal fees with nonlawyers under certain conditions. This means that an Arizona lawyer in a traditional law firm may, for instance, pay a percentage of legal fees to a paralegal as a bonus; pay a percentage of legal fees to someone who refers the client to the firm (with informed consent from the client); and pay a percentage of fees to a technology company or lender, as long as the payment does not give the third party an "economic interest" in the law firm.

These examples demonstrate that allowing nonlawyer involvement in law firms and fee-sharing arrangements hasn't led to the dire consequences some feared. Instead, they've provided opportunities for innovation and increased access to legal services while maintaining professional standards and client protection.

5. Other Jurisdictions on the Horizon

On December 5, 2024, the state of Washington joined Arizona and Utah in exploring change in legal entity regulation. The Supreme Court of Washington's December 5 order directs the Court's Practice of Law Board (Board) and Washington State Bar Association (WSBA) to work in collaboration to "conduct a pilot project of entity regulation to test reforming the activities prohibited in RCW 2.48.180, RPC 5.4, and LLLT RPC 5.4."[17] This pilot program will allow companies and non-profit entities to offer legal services under carefully monitored conditions. The Court stated: "The purpose and focus of this pilot project are to collect data and information to inform reform efforts related to the regulation of the practice of law, and more specifically, to rules and regulations governing entities engaging in activities whether or not they constitute the practice of law." Updates about Washington's pilot program will be posted at www.wsba.org/pilot-project.

[17] In the Matter of the Adoption of a Pilot Project to Test Entity Regulation Using the Practice of Law Board's Framework for Legal Regulatory Reform, Supreme Court of Washington, Order No. 25700-B-721, December 5, 2024, at 4.

Michigan, New Mexico, and North Carolina established task forces to analyze and consider possible changes to Rule 5.4. Oregon, Virginia, and Vermont have released non-binding, opinion-based reports recommending reforms to Rule 5.4.

On the other hand, Illinois formed a task force and issued a report in September 2020 recommending changes for a more sustainable, modern, and equitable legal profession. Unfortunately, the Illinois State Bar Association rejected the task force's recommendations to explore ways to allow lawyers to "responsibly partner with other disciplines." California formed a task force that suffered a similar fate, in that its access to justice committee was disbanded before it could complete its assignment. On September 18, 2022, the California legislature, which regulates the State Bar of California and attorneys, passed legislation expressly forbidding the task force's initiative to continue.

V. Current ABA Model Rule 5.4 and APRL's Suggested Revisions

APRL's proposed revisions aim to give lawyers and law firms access to critical funding and the opportunity to partner and create new business models that better serve modern America's legal needs while continuing to protect consumers of legal services.

APRL's Future of Lawyering (FOL) Committee[18] has developed its Rule 5.4 proposal after considering:

- the historical context and intent of Rule 5.4;
- data from Arizona, Washington D.C., Utah's sandbox, and other countries permitting legal fee-sharing with non-lawyers;
- each state's current Rule 5.4 and other relevant rules;
- ethics, regulatory, and practical concerns expressed by some states and members of the legal profession; and

[18] See Appendix A. The views expressed herein are solely those of the authors as approved for publication by the APRL Board and the Future of Lawyering subcommittee and do not necessarily reflect the views of any other organization, employer, or affiliated entity.

Current Model Rule 5.4: Professional Independence of a Lawyer

Law Firms And Associations

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price;

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

(4) a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

APRL's Suggested Revisions to Model Rule 5.4

Revised Rule 5.4: Sharing of Fees with a Nonlawyer

(a) A lawyer may share fees with a nonlawyer when:

(1) an agreement by a lawyer with the lawyer's firm, partner, or associate provides for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price;

(3) a lawyer or law firm includes nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

(4) a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.

(b) A lawyer may also share fees with a nonlawyer when the lawyer exercises independent judgment as required by Rule 2.1, retains responsibility for the nonlawyer under Rule 5.3, and

(1) If the sharing is with a nonlawyer outside of the lawyer's law firm:

a. the client agrees to the arrangement, including the share each person or entity will receive, and the agreement is confirmed in writing; and

b. the total fee is reasonable.

(2) If the sharing is with a nonlawyer within the lawyer's firm or employer and one or more nonlawyers have a financial interest in the business entity, the business entity has complied with any registration requirements in this jurisdiction.

APRL's proposal retains some features of the rule and recommends removing others, as follows:

- APRL states the rule in the affirmative, stating the conditions under which fees may be shared, instead of stating the general rule as a prohibition subject to exceptions.
- In section 5.4(a), APRL retains provisions currently found in Rule 5.4(a).
- The current Rule 5.4 frames the rule in the context of professional independence, even though those requirements also appear in Model Rules 2.1 and 5.3. To avoid misunderstanding, in the event Rule 5.4 were read as a stand-alone rule, APRL's revised rule retains references to professional independence and responsibility for supervision of nonlawyers in subsection (b).
- APRL proposes adding, in revised subsection (b)(1), a requirement for client consent, in writing, to fee-sharing arrangements between lawyers and non-lawyers. Some states, including California in its Rules of Professional Conduct, Rule 1.5.1, demand such requirements for fee-sharing arrangements between lawyers not in the same firm.

VI. Conclusion

APRL believes that the time for change is now. Realistically, the time for change – as evidenced by the successful efforts of the other jurisdictions discussed above – is long overdue; however, changing the rules now that prohibit lawyers from collaborating with nonlawyers and sharing fees is certainly better done late than never.

APRL also recognizes that recent formal actions of the ABA attempting to "declare" an end to any consideration of changes to the rules on fee sharing might cause many who receive this message favorably to believe that any effort to convince the ABA to change its position and adopt the revisions proposed in this paper would be a futile one. Whether the ABA will be as receptive to a clarion call for change does not alter the fact that change is needed. Thus, rather than presenting this proposal as a call to action to be solely heeded by states, APRL encourages the ABA to lead, rather than obstruct, significant regulatory reform that will benefit both lawyers and consumers of legal services, and importantly, do no harm.

APPENDIX A

ASSOCIATION OF PROFESSIONAL RESPONSIBILITY'S FUTURE OF LAWYERING SUBCOMMITTEE[1]

FOL Co-Chairs:

Jan L. Jacobowitz

Jan is a Past President of APRL and current co-chair of APRL's Future of Lawyering subcommittee. She is a Florida licensed lawyer who practices as a legal ethics consultant. Her background as a litigator, in-house counsel, and legal ethics scholar provides her with a unique perspective and skill set. Jan is involved in the ongoing, dynamic national conversations about legal ethics and the evolving nature of the practice of law. Jan was invited to become an ABA Foundation Fellow in 2018 and received the 2012 ABA Smythe Gambrell Award, honoring the Professional Responsibility & Ethics Program work at the University of Miami School of Law she directed. Prior to devoting herself to legal education and legal ethics consulting, Jan practiced law for over twenty years. She began her career as a Legal Aid attorney in the District of Columbia; prosecuted Nazi war criminals at the Office of Special Investigations of the U.S. Department of Justice. She then practiced privately in general practice and commercial litigation firms in Washington and Miami.

Brian S. Faughnan

Brian is a Past President of APRL and current co-chair of APRL's Future of Lawyering subcommittee. He is a sole practitioner and owner of Faughnan Law, PLLC, located in Memphis, Tennessee. Prior to founding his own law firm, Brian practiced law for over twenty years in large and mid-sized full-service law firms. In addition to handling business litigation and appellate litigation, his practice focus involves solving problems for lawyers. Over the years, Brian has represented hundreds of lawyers in disciplinary matters, law firms and lawyers in litigation and other matters involving professional liability, and applicants for admission to practice in Tennessee. He has also served as an expert witness in a variety of matters in federal and state courts in Tennessee.

Brian has been listed in The Best Lawyers in America for each of the last seventeen years and was named 2017 Appellate Practice "Lawyer of the Year" in Memphis by that publication. He is also listed as a "Super Lawyer" by Mid-South Super Lawyers, and has an

[1] The views expressed herein are solely those of the authors as approved for publication by APRL's Board and the Future of Lawyering subcommittee and do not necessarily reflect the views of any other organization, employer, or affiliated entity.

AV rating from Martindale Hubbell. Brian is a frequent author and speaker on ethics and professional responsibility issues. He is a co-author of the book "Professional Responsibility in Litigation," which is now in its Third Edition published by the ABA. He shares his thoughts on legal ethics, professional responsibility, and other aspects of the law of lawyering at www.faughnanonethics.com. He is currently a member of the ABA Standing Committee on Ethics and Professional Responsibility. Brian is also a former President of the Association of Professional Responsibility Lawyers and a former Chair of the Tennessee Bar Association's Standing Committee on Ethics and Professional Responsibility.

FOL Members:

Kendra L. Basner

Kendra is the current President of APRL. She is a member of California's Civility Task Force, an Editorial Board Member for the ABA/BNA Lawyer's Manual on Professional Conduct, and APRL's liaison to the ABA Coordinating Counsel. She is the Past Chair and current executive committee member of the Bar Association of San Francisco's (BASF) Legal Ethics Committee and was honored with BASF's 2019 Award of Merit. Kendra also served a three-year term as a member of the State Bar of California's Committee on Professional Responsibility and Conduct (COPRAC) from 2017-2020. She is licensed in California and Wyoming. She is an experienced litigator and a California-certified specialist in legal malpractice law. Kendra was a partner with Hinshaw & Culbertson until 2018. She is presently a partner of O'Rielly & Roche LLP, where she devotes her practice to counseling and advising lawyers, law firms, in-house corporate counsel, legal service providers, and related businesses concerning legal ethics, risk management, and law practice planning and compliance with the unique perspective gained through advocating on behalf of lawyers in civil cases and State Bar discipline matters. She also serves as an expert on legal malpractice and legal ethics issues. She frequently writes and speaks locally, nationally and internationally on legal ethics, legal malpractice and risk management. Prior to entering private practice, Kendra began her legal career as a prosecutor for the Delaware Attorney General's office in the criminal and fraud divisions.

George R. Clark

George is a Past President of APRL. He is a D.C. licensed lawyer who represents other lawyers and law firms regarding ethics, professional responsibility, and the law of lawyering with respect to lawyers. He is also a member of the DC Bar Legal Ethics Committee 2022-23 and ending his six-year tenure; from 2009-2012, he served as Chair of the DC Bar's Rules of Professional Conduct Review Committee, completing his Committee term beginning in

2006. George was a member and prior liaison to the ABA Center for Professional Responsibility Coordinating Council. He was also a prior liaison to the ABA Center on Professional Responsibility Policy Implementation Committee. George also previously served as the Chairman of the International Bar Association, Media Law Committee. After leaving Reed Smith in 2003, Mr. Clark established his solo practice as a way to advise attorneys throughout the nation and overseas. Drawing on 35 years of hands-on experience, he provides legal opinions, serves on all aspects of legal ethics and professional responsibility, serves as an expert witness, consults on matters such as conflicts of interest and disqualification, defends lawyers in disciplinary cases, and helps attorneys get admitted to the bar. He has been elected for inclusion in *2012 through 2024 Washington DC Super Lawyers*. He has served as President, Chair, and Board member of several Washington, D.C., Civic groups.

Eric T. Cooperstein

Eric is licensed in Minnesota and started his private law practice devoted to legal ethics in the fall of 2006. He has represented hundreds of lawyers and law firms in ethics and law-practice-related matters. Eric is a former Senior Assistant Director of the Office of Lawyers Professional Responsibility, where he worked from 1995 to 2001, and a former member of the 4th District Ethics Committee, on which he served from 2003 through April 2007. Eric has served on the board of Minnesota Lawyers Mutual Insurance since 2015. He recently completed nine years on the board of Minnesota Continuing Legal Education, including three years as Chair. From October 2023 through June 2024, he served on the Minnesota Supreme Court Advisory Committee to Review the Rules on Lawyers' Professional Responsibility. Governor Tim Walz appointed Eric to the board of the Minnesota Housing Finance Agency in March 2023, where he continues to serve. Eric is a past president of the Hennepin County Bar Association (HCBA) (2013-2014) and past chair of the Hennepin Lawyer magazine committee (2015 – 2017). Eric also chaired MSBA's Rules of Professional Conduct Committee from July 2009 through June 2012. Eric served on the 2007-08 Minnesota Supreme Court's Advisory Committee regarding the Attorney Discipline System. Eric also served in the ABA House of Delegates (2016 – 2019) and on the ABA Standing Committee on Bar Services and Activities (2017 – 2021).

Chessie da Parma

Chessie is a new member of APRL and is licensed in New York. She is an associate at Frankfurt Kurnit Klein & Selz PC where she advises companies and individuals in a wide range of disputes, including commercial litigation, intellectual property matters, and professional responsibility issues. Prior to joining Frankfurt Kurnit, Ms. da Parma was a litigation associate at TLT LLP based in Bristol, UK, and worked at a litigation boutique in

New York. While in the UK, Ms. da Parma represented major lenders and UK clearing banks in both consumer and commercial litigation matters.

Anthony Davis

Anthony is a Past President of APRL. He is licensed in New York and Colorado. Anthony is also a non-practicing, licensed Barrister and Solicitor in England and Wales. He is presently a partner at Fischer Boyles where he advises lawyers and law firms in the United States and internationally in the areas of professional responsibility, risk management and every aspect of the law governing lawyers. Anthony is the author of books, numerous scholarly articles, and the bi-monthly "Professional Responsibility" column in the New York Law Journal. Anthony is a Lecturer-in-Law at Columbia University School of Law, teaching "Professional Responsibility Issues in Business Practice." He is a Fellow of the College of Law Practice Management and a Member of the American Law Institute (ALI). He is presently a member of the New York City Bar Professional Ethics Committee, 2010-2013; 2023 –and a past member of its Professional Responsibility Committee, 1992-1995, 1998-2001, 2007-2010, 2019-2022.

Edward X. Clinton Jr.

Edward is licensed in Illinois and has 32 years of experience in Commercial and Malpractice Litigation. He is a principal in the Clinton Law Firm and focuses his practice on business litigation and legal malpractice. He represents lawyers before the Attorney Registration and Disciplinary Commission. In addition to his extensive litigation practice, Edward serves as an expert witness in legal malpractice claims. He is a member of the Chicago Bar Association, Economic Club of Chicago, Union League Club, Seventh Circuit Bar Association, American Bar Association and the Association of Professional Responsibility Lawyers. In 1991, Ed graduated, *cum laude*, from Harvard Law School. He was a law clerk to the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit from September 1991 to September 1992. From 1992 to May 1996, he worked as a commercial litigation associate at Mayer, Brown & Platt. After working at Katten Muchin & Zavis, Ed joined the Clinton Law Firm in 1997 as a shareholder.

Kenneth Craig Dobson

Craig is licensed in New York and South Georgia. He presently practices in New York for Dobson Law LLC and provides ethics advice to lawyers, represents lawyers in disciplinary matters, and practices immigration and nationality law. He is the current Chair of the National Ethics Committee for the American Immigration Lawyers Association (AILA). Craig previously served as Georgia UPL Liaison for the American Immigration Lawyers

Association's (AILA) Georgia-Alabama Chapter and was appointed by the Supreme Court of Georgia to serve as Chairperson of the District 1 UPL Committee for the State Bar of Georgia from 2014 to 2017. He is currently a member of AILA's National Ethics Committee and was chair from 2017 to 2021. Additionally, he is a member of the New York City Bar Association's Mindfulness & Wellbeing in Law Committee and vice-chair of AILA's new Lawyer Well-Being Committee. In October 2017, he became one of the first National Board-Certified Health & Wellness Coaches. Craig has a Bachelor of Arts in philosophy from Furman University and a Juris Doctor, cum laude, from New England School of Law. During law school, he received CALI awards in both the Law and Ethics of Lawyering and International Business Transactions and served as Editor-in-Chief of the New England Journal of International and Comparative Law. Craig not only spends his days studying the law and ethics of lawyering, but he is also frequently called upon to teach and write on the subject.

Arthur J. Lachman

Arthur is a Past President of APRL and former chair of APRL's Future of Lawyering Committee, who led the committee's efforts to revise the attorney advertising model rules. Arthur is licensed in Washington where he has been a solo practitioner since 2003. He advises and represents lawyers and law firms on legal ethics, professional responsibility, and the law of lawyering. He is a former chair of the ABA Center for Professional Responsibility's National Conference Planning Committee. He is co-author of *The Law of Lawyering in Washington,* published by the Washington State Bar Association, and served as chair of the WSBA Rules of Professional Conduct Committee from 2008 to 2010. He holds bachelor's and graduate degrees in accounting from the University of Illinois at Urbana-Champaign. A 1989 graduate of the University of Washington School of Law, he clerked on the Ninth Circuit Court of Appeals, has practiced as a commercial litigation attorney, and has taught civil litigation and ethics subjects at both Puget Sound area law schools.

David M. Majchrzak

David is the current President-Elect of APRL. He is licensed in California and Arizona. He served as the co-chair of the California Lawyers Association's first Ethics Committee and as a member of the organization's Future of the Profession Task Force, and he co-chaired 2022's annual meeting. He currently serves as the chair of the ABA working group on Model Rule 5.5, a member of the ABA Standing Committee on Professionalism, a member of the editorial board of the ABA/Bloomberg Law Lawyers' Manual on Professional Conduct, a liaison to the ABA Standing Committee on Ethics and Professional Responsibility, and a member of the ABA National Conference on Professional Responsibility Planning Committee. David also served a three-year term as a member of the State Bar of California's

Committee on Professional Responsibility and Conduct (COPRAC), and chair of its outreach committee. He is also a past chair of the San Diego County Bar Association's Legal Ethics Committee. In 2022, David served as the president of the San Diego County Bar Association. He has also been active within the American Inns of Court. He served for four years as president of the William L. Todd, Jr. chapter and two years on the national program awards committees. Presently, he serves on the executive committee for the Law Practice Management and Technology section of the California Lawyers Association. He has also served as an officer of the Association of Discipline Defense Counsel. David is a seasoned ethicist, civil litigator, and certified specialist by the State Bar of California in legal malpractice law, is listed in Best Lawyers in America and Super Lawyers, and is rated AV®-Preeminent™ by Martindale-Hubbell. He is the Managing Shareholder of Klinedinst's Arizona office and serves as the firm's Deputy General Counsel. He represents clients in matters involving attorney and law firm risk management, discipline defense, legal malpractice claims, and judicial discipline. He has also served as an expert on legal ethics issues.

Tyler Maulsby

Tyler is the Immediate Past President of APRL. He is licensed in New York and New Jersey and is the co-chair of the Litigation Group at the law firm of Frankfurt Kurnit Klein & Selz. He co-chairs the New York City Bar Association's Subcommittee on Artificial Intelligence and Legal Ethics, which is part of the Presidential Task Force on Artificial Intelligence and Digital Technologies. He is the immediate past chair of the New York City Bar Association's Committee on Professional Ethics. Tyler represents law firms and individual lawyers in a wide range of legal ethics and professional responsibility matters, including legal malpractice litigation, legal fee disputes, partnership breakups, attorney discipline and admission matters, attorney departures and lateral hires, and law firm partnership agreements. He also provides ethics opinions and advice to lawyers and law firms and serves as an expert witness in attorney ethics and professional responsibility matters. He serves as an adjunct professor at NYU School of Law where he teaches Legal Ethics and Professional Responsibility.
He is also a member of the ABA Center for Professional Responsibility and the ABA Standing Committee on Public Protection in the Provision of Legal Services. Before joining Frankfurt Kurnit, Mr. Maulsby was a criminal defense attorney with The Bronx Defenders, a public defense office in New York City.

Sari W. Montgomery

Sari is the current Secretary of APRL and Chair of the ABA Standing Committee on Professional Regulation. She is licensed in Illinois and has devoted her career to the law of lawyering, legal ethics, and professional responsibility for over 30 years. Sari also serves on

the Illinois State Bar Association Standing Committee on Artificial Intelligence in the Practice of Law, and the Committee on Professional Conduct, which drafts ethics opinions for the benefit of all Illinois lawyers. She is also a member of the Board of Managers of the Chicago Bar Association. Sari is a partner in the Chicago firm of Robinson, Stewart, Montgomery & Doppke LLC and has successfully represented lawyers at every stage of the disciplinary process from investigation and hearing, to appeals before the Attorney Registration and Disciplinary Commission (ARDC) Review Board and the Illinois Supreme Court for nearly fifteen years. Sari also represents judges in disciplinary proceedings, bar applicants in navigating the Character and Fitness process, and provides ethics advice to lawyers, law firms, government agencies, and law related businesses. She was formerly Litigation and Senior Litigation Counsel at the ARDC, where she conducted hundreds of investigations and prosecuted dozens of cases before the ARDC Hearing Board. Sari frequently presents at international, national, state, and local CLE programs and has published extensively. She is a faculty member of the Practising Law Institute (PLI) and the National Academy of Continuing Legal Education (NACLE), and is an Adjunct Professor at Northwestern University Pritzker School of Law where she teaches Legal Ethics.

Jayne Reardon

Jayne is licensed in Illinois and is a nationally renowned expert on legal ethics and professionalism. She is active in local and state bar associations as well as in committees and divisions of the ABA. She is a former Chair of the ABA's Standing Committee on Professionalism for three consecutive years and received the Center for Professional Responsibility's highest lifetime honor: The Michael Franck Professional Responsibility Award. An experienced trial lawyer, Jayne has tried cases in state and federal courts across Illinois and on appeal up to the United States Supreme Court. She also sits on the national rosters of the American Arbitration Association for Commercial and Consumer Arbitration and is a certified neutral in the Early Dispute Resolution Process. Jayne is presently a Partner, Deputy General Counsel, and Chair of the Arbitration & Mediation at the law firm of Fisher Broyles. Her past experience includes service as Executive Director of the Illinois Supreme Court Commission on Professionalism, an organization dedicated to promoting ethics and professionalism among lawyers and judges, and disciplinary counsel for the Illinois Attorney Registration and Disciplinary Commission.

Lynda C. Shely

Lynda is a Past President of APRL. She is licensed in Arizona, the District of Columbia, and Pennsylvania and is a Shareholder in the Phoenix office of Klinedinst. She served as the 2020–2023 Chair of the ABA Standing Committee on Ethics and Professional Responsibility, was an Arizona delegate in the ABA House of Delegates from 2016–2023, a

prior Chair of the ABA Standing Committee on Client Protection, and a longtime member of the ABA's Center for Professional Responsibility. Lynda also served on the Center's Conference Planning Committee and the Standing Committee on Professionalism. Additionally, she is a member of the State Bar of Arizona Ethics Advisory Group and the Arizona Supreme Court's ABS Committee. Prior to private practice in Arizona, she was the Director of Lawyer Ethics at the State Bar of Arizona. Lynda has led the efforts of several organizations as President, including the National ABS Law Firm Association (2022–2023), the Association of Professional Responsibility Lawyers (2014–2016), and the Scottsdale Bar Association (2008–2009). Lynda has also received multiple recognitions for contributions to the legal community, including the State Bar of Arizona, 2007 "Member of the Year" the Maricopa County Bar Association, e Hall of Fame in 2023 and Member of the Year in 2022, the Arizona Women Lawyers' Association, Maricopa Chapter, Ruth V. McGregor Award in 2015, the Scottsdale Bar Association Award of Excellence in 2010, and 2024 Arizona Women Lawyers' Association Sarah Herring Sorin Award.

Hope C. Todd

Hope oversees the legal ethics program at the District of Columbia Bar. She is staff counsel to the D.C. Bar Rules of Professional Conduct Review and Legal Ethics Committees. Hope is licensed in D.C. and New York. Since 2006, she has provided legal ethics guidance through the D.C. Bar's Ethics Helpline on the interpretation and application of the D.C. Rules of Professional Conduct. Hope regularly teaches ethics Continuing Legal Education courses and serves on panels for local and national audiences. She is a contributing author for the "Speaking of Ethics" and "Ask the Ethics Experts" features of the Washington Lawyer magazine. She is a former member (2014-2017) of the American Bar Association's (ABA) Standing Committee on Ethics and Professional Responsibility (SCEPR) and served as the SCEPR liaison to the ABA Commission on the Future of Legal Services. She is a member of the National Organization of Bar Counsel (NOBC), the Association of Professional Responsibility Lawyers (APRL), and the ABA Center on Professional Responsibility. Before joining the D.C. Bar in 1998, Ms. Todd was in private practice in the state of New York.