

Why Attorneys Should Embrace LPPs

by Scotti Hill

Who are LPPs and why should law firms hire them?

A year and a half after its inaugural licensing examination, the Utah State Bar's Licensed Paralegal Practitioner (LPP) program has seen incremental but consistent growth. Beginning with a 2015 task force sponsored by the Utah Supreme Court, the LPP program was implemented as an entirely new legal profession with two predominant goals in mind: to assist the ever-increasing population of self-represented parties in the state of Utah, and to create an independent market for a novel legal professional.

The Utah State Bar, seizing upon early trends of LPP program implementation throughout the nation, began licensing qualified applicants in 2019, and to date has licensed thirteen LPPs. LPPs are authorized to practice law in the following areas: family law, debt collection, and unlawful detainer (evictions) actions. This scope of practice is codified in Judicial Council Code of Judicial Administration Rule 14-802 as an exception to the unauthorized practice of law. LPPs may enter into contractual relationships and represent clients, assist clients in completing relevant pleadings, motions, and applicable forms, and negotiate with opposing counsel on settlement and mediation discussions. An LPP's scope of practice is limited to forms approved by the Judicial Council.

Like attorneys, licensing for LPPs is contingent upon successfully passing a rigorous licensing exam administered twice yearly by the Bar. Additionally, LPPs are bound by the Rules of Professional Conduct and have annual CLE requirements.

With the implementation of legal 'paraprofessionals' on the rise nationally, Utah LPPs are pioneering a new form of legal services and representing clients previously unlikely to seek out legal assistance. Most of the current slate of LPPs work for law firms, raising interesting questions about how attorneys and LPPs are working together and how they may forge new and innovative business arrangements. In my survey of firms that currently employ LPPs, two major themes emerged: LPPs make firms more well-rounded in their offerings and thus capture more of the market as a "full-service firm," and in doing so, have the potential to greatly benefit the public at large.

Capturing more of the market as a 'full-service' law firm

Dean Andreasen and Diana Telfer, both Directors, Shareholders and Co-Chairs of the Family Law Practice Group at Clyde Snow Sessions, say their firm has benefited from having an LPP on staff. In 2019, the firm's paralegal Amber Alleman expressed a desire to get licensed. The firm was eager to assist Amber in her endeavor. In 2020, Amber was named the distinguished paralegal of the year by the Utah State Bar.

"Our firm was immediately supportive. Amber has done really well and now has her own book of business," says Telfer. Now, not only is Amber bringing in clients who traditionally could not afford an attorney, but also those who may be wary of going to a law firm for help. In many of her cases, she has been retained to assist with smaller, less complex legal issues.

"I think it speaks volumes about an individual's motivation to the law as a profession," says Brandon Baxter, partner at Peck Hadfield Baxter and Moore, of employees willing to undergo the rigorous licensing requirements of the LPP program. Baxter's Logan-based firm employs two recently licensed LPPs: Tonya Wright and Rheane Swenson. "Philosophically, if you really believe in your paralegals, you will support them in their goals. This increased training is also going to pay dividends for your firm."

Another benefit of working within a law firm, however, is the support in cases where legal issues evolve throughout the course of the representation. In such cases, one of the firm's associates can assist for issues outside the scope of an LPP's

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practice. This “cross-fertilization” as Andreasen puts it, can benefit the entire firm and the public. “It’s not cost or time effective for a partner or senior associate to handle a case that would typically be handled by someone like Amber, but [hers] is [an] important aspect of legal services that we want to provide to the public in general.”

Ultimately, “LPPs are going to enhance your business, rather than take it away,” says Telfer.

Holly Nelson, Partner at Dart Adamson and Donovan agrees. “Having an LPP at our firm allows us to meet the needs of more clients than we could have helped previously,” she says. “If it’s an issue that doesn’t justify a partner’s fees, it’s great to have the option to still take care of that person. The firm’s LPP “Susan [Morandy], has so much experience doing this type of work. She’s actually been doing family law longer than I have.”

The ease of access is also desirable, as attorneys may be booked out for months with active caseloads, whereas LPPs, due to the limited scope of their work, may be able to assist a client relatively quickly.

“While our LPP isn’t doing a really involved representation, there’s an immense value in getting simple questions answered,” says John Shaeffer, Partner at Dart Adamson and Donovan.

Indeed, an LPP can help clients go through complex paperwork, such as a custody agreement, and utilize their billable rate to help navigate the client through the legal process. This is particularly important as more clients opt to represent themselves due to high legal costs.

“Sometimes clients don’t know what questions to ask and often don’t have someone to help them through the process. Having an LPP to assist is empowering and it provides a great service to our community,” Shaeffer says.

Undoubtedly, there remain those who are skeptical of LPPs and even worry they may take business away from attorneys.

“Change and things that are different are hard, I get that. LPPs, however, provide a really valuable service,” says Nelson.

Ben Miller has represented hundreds of clients in state and federal courts as an appellate advocate and strategist. And as an adjunct professor of law, he has taught classes on legal writing, oral advocacy, and criminal law and procedure. His justice reform op-eds have appeared widely in venues like The Washington Post, Slate, and Politico.

We welcome him.



BEN MILLER

The data bears out that the market predominantly captured by LPPs are not those who would otherwise hire lawyers, but instead those who would opt for self-representation. As Nelson explains,

The LPPs that I know in this community are all with well-respected firms. It's a whole part of a service that you can provide at a firm, which is highly valuable and translates to other areas of law where you want to be able to provide services that correspond and justify the fees. Hiring an LPP gives you a better way to truly be a 'full service' law firm,

Those firms who have now hired LPPs believe that not only has the decision already paid off, but that it will allow them to capture a market share previously unimaginable without an LPP's services.

"From a law-office perspective, we appear more appealing in the marketplace when we can bring a broad range of services to the public and market something to people that more closely fits their particular needs," Shaeffer says. "It's also such a bonus for minds other than attorneys to be looking at a legal issue," Nelson adds.

"Our LPPs take clients we might have previously turned away," says Baxter. "It's great because now there's a super high-quality

person who can assist them with that issue." In some cases, he says, a client, whom the firm previously assisted with a personal injury matter, may later need help with a divorce. "Because we have a pre-existing relationship with that client, they would prefer to use us for their legal needs. Prior to recently however, we wouldn't have been able to assist with such cases," says Baxter.

Access to Justice

A 2019 report from the Utah Work Group on Regulatory Reform noted that "At least one party was unrepresented throughout the entirety of the suit in 93% of all civil and family law disputes disposed of in the Third District in 2018."

Now, LPPs can assist those who would otherwise go at it alone.

By billing at a lower rate than attorneys, LPPs can assist those who traditionally forfeit legal services and opt for self-representation. "In terms of public service, the LPP program is great because of its relative affordability – [the program] is a good public service and access to justice initiative, which is great PR for any firm wishing to show their commitment to these issues," says Telfer. "I see it as an all-around benefit, even to a solo practitioner. [An LPP] is bringing in cases that could offset the costs of running the office."

When Shaeffer found out about the LPP program, he recognized the access to justice goals of the program as consistent with his firm's pro bono initiatives. Others agree.

"I view the LPP program as one of the best, most targeted ways to meet the unrecognized legal needs of our population," says Baxter.

"The practice of law is a lot about service, and in helping others, it has brought a lot of meaning to my life. Seeing Tonya and Rheane being able to do that is exciting."

Conclusion

Now, five years after a Utah Supreme Court Task Force recommended the creation of the LPP program, other states are following suit. Recently, Arizona's Supreme Court issued an order creating a Licensed Paraprofessional to allow nonlawyers to offer limited legal services to clients in certain civil and criminal cases. Likewise, Minnesota has launched a pilot program whereby legal paraprofessionals may aid parties in evictions and domestic issues. Other jurisdictions are following suit. With Utah paving the way, members of the Bar are wise to adapt to the vast opportunities of this profession, including partnerships that can bolster their firm's economic and charitable opportunities.



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Burbidge | Mitchell welcomes Clancey Henderson back to our team. Clancey recently served as a law clerk to the Honorable Judge David Mortenson on the Utah Court of Appeals. He previously clerked for the U.S. Senate Judiciary Committee through the office of Senator Orrin Hatch and served as a judicial intern to the Honorable Judge Carolyn McHugh on the U.S. Court of Appeals for the Tenth Circuit. Prior to entering the legal profession, Clancey was an intelligence analyst in the United States Army for nearly ten years. He completed multiple combat tours overseas and received recognition for outstanding service.

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