

No. 25-948

**In the Supreme Court of the United
States**

UPSOLVE, INC, ET AL.,

Petitioners,

v.

LETITIA JAMES, ATTORNEY GENERAL OF NEW YORK

Respondent.

On Petition for a Writ of Certiorari to the United States
Court of Appeals for the Second Circuit

**BRIEF FOR REBECCA L. SANDEFUR AND 31
SCHOLARS AS *AMICI CURIAE* IN SUPPORT OF
PETITIONERS**

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INTEREST OF THE *AMICI CURIAE*¹

Dr. Rebecca L. Sandefur is a leading scholar and sociologist with expertise in access to civil justice. She is a Professor in the College of Liberal Arts and Sciences and the Sandra Day O'Connor College of Law at Arizona State University. She is also a Faculty Fellow at the American Bar Foundation, an independent, non-partisan research organization focused on the study of law and legal processes. In 2018, Professor Sandefur was named a MacArthur Fellow for her development of a new evidence-based approach to access to civil justice for low-income people. Her work has received numerous awards, including from the National Center for Access to Justice (2015) and the National Center for State Courts (2020).

In this *amicus* brief, Professor Sandefur is joined by 31 scholars who study the legal profession and the provision of legal services across jurisdictions. The full list and affiliations of *Amici* joining this *amicus* brief are included in the appendix.

Amici have an interest in this case because state statutes restricting the “unauthorized practice of law”—such as the New York statute challenged in this case—pose a substantial obstacle to innovative programs that use nonlawyer professionals to help

¹ Pursuant to Supreme Court Rule 37.2, ten days before this brief was due, *Amici* notified counsel of record for the parties of their intention to file this brief. Pursuant to Supreme Court Rule 37.6, *Amici* state that no counsel for a party authored this brief in whole or in part and that no person other than *Amici* or its counsel made any monetary contributions intended to fund the preparation or submission of this brief.

alleviate the severe access-to-justice gap faced by countless individuals across the country who cannot access legal services. At the same time, some states have experimented with creative solutions to address the access-to-justice gap—for example, by authorizing nonlawyer professionals to assist individuals who cannot obtain counsel in navigating debt-collection, housing court, and other routine legal proceedings. *Amici* share an interest in advancing the success of these innovative programs and in ensuring that unauthorized-practice-of-law restrictions comport with the First Amendment.

SUMMARY OF ARGUMENT

Like other states across the country, New York faces an increasingly acute crisis of access to civil justice that places hundreds of thousands of unrepresented people in debt-collection proceedings and undermines the legitimacy of the courts, as well as the rule of law itself. Petitioners seek to provide nonlawyer specialists at no cost who can help mitigate these concerns by providing more accessible, and often more effective, legal services for underrepresented Americans facing debt-collection actions. The Court should grant certiorari to address the important issues raised by this case and to provide valuable guidance to many states that are considering authorizing innovative programs such as the one offered by Petitioners here.

First, the access-to-justice crisis is acute and pervasive both in New York and across the country, and it requires this Court's intervention now to ensure that the solutions offered by Petitioners and similar service providers can meet the urgency of this

crisis. Most low-income Americans cannot obtain counsel for their civil legal issues, including debt-collection matters, landlord-tenant disputes, domestic violence, veterans' benefits, and more. Because so many Americans cannot access legal representation, they are often left to fend for themselves without the necessary tools to navigate formal legal proceedings. Empirical evidence shows that, as a result, these individuals often do not appear in their cases *at all* to present any defense—even when their position is supported by the facts and the law. A justice system in which millions of Americans repeatedly lose by forfeit, because they cannot meaningfully participate in it, diminishes the legitimacy of the system itself and undermines the promise of equal justice for all. This Court should hear the important and pressing issues raised by this case.

Second, this Court's guidance concerning the First Amendment limitations on unauthorized-practice-of-law regulations will help guide further innovation at a crucial time. To date, fourteen states across the country and the District of Columbia—several of which are discussed below—have authorized or proposed programs to address the access-to-justice gap by allowing nonlawyer specialists to provide certain legal services. Other states are considering following suit. This Court's clarification of the appropriate standard of First Amendment scrutiny for review of unauthorized-practice-of-law restrictions will help states determine how to approach innovative programs like Petitioners' Justice Advocates program, including deciding how to relax any existing unauthorized-practice-of-law restrictions and how to craft exemptions from those

restrictions. A decision by this Court confirming Petitioners’ correct contention that strict scrutiny applies to such restrictions would likely spur further innovation—which members of the judiciary, including Justice Gorsuch, have commended²—thereby helping close the urgent access-to-justice gap.

ARGUMENT

I. This Case Raises Issues of Nationwide Importance Given the Acute and Pervasive Access-to-Justice Gap.

The access-to-justice crisis in the United States has persisted for decades, despite the existence of legal aid and *pro bono* work. In 1992, the American Bar Association commissioned a landmark study (*Legal Needs and Civil Justice*) that found approximately half of American households surveyed “faced some situation that raised a legal issue,” with 47% of low-income households and 52% of moderate-income households reporting at least one legal need.³ Of those households facing legal issues, 41% of low-

² Justice Gorsuch and former Colorado Supreme Court Justice Kourlis, for example, have encouraged states to pursue innovative nonlawyer solutions such as those discussed below. Rebecca Love Kourlis & Neil M. Gorsuch, *Legal Advice Is Often Unaffordable. Here’s How More People Can Get Help: Kourlis and Gorsuch*, USA TODAY (Sep. 17, 2020), <https://www.usatoday.com/story/opinion/2020/09/17/lawyers-expensive-competition-innovation-increase-access-gorsuch-column/5817467002/>.

³ CONSORTIUM ON LEGAL SERVS. & THE PUB., AM. BAR ASS’N, *LEGAL NEEDS AND CIVIL JUSTICE: A SURVEY OF AMERICANS* 9 (1994), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/downloads/legal-needstudy.pdf.

income households and 42% of moderate-income households were forced to deal with them without legal assistance, and an additional 38% of low-income households and 26% of moderate-income households took no action at all.⁴ Only 29% of low-income households turned to the civil justice system to resolve their issues, and only 39% of moderate-income households did so.⁵ According to the report, “[t]he predominant reasons for low-income households not seeking legal assistance were a sense that it would not help and that it would cost too much.”⁶

Thirty years later, the situation is unfortunately no better. “Low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems.”⁷ For example, a 2020 study commissioned by the Institute for the Advancement of the American Legal System (IAALS) surveyed over 10,000 Americans nationally. The IAALS study found that Americans experience over 260 million civil justice problems annually, of which 120 million go unresolved.⁸

⁴ *Id.* at 17.

⁵ *Id.* at 22.

⁶ *Id.* at 20.

⁷ LEGAL SERVS. CORP., *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*, Executive Summary (2022), <https://justicegap.lsc.gov/resource/executive-summary/>.

⁸ INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. & HAGUE INST. FOR THE INNOVATION OF L., JUSTICE NEEDS & SATISFACTION IN THE UNITED STATES OF AMERICA 6 (2021), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>; *see also* Rebecca L. Sandefur, *Access to What?*, 148 DAEDALUS 49, 49–55 (2019);

Cases involving consumer debt are emblematic of this broader trend. The booming debt-buying industry, wherein companies buy bad debts from lenders for “pennies on the dollar” to collect the debt themselves, are “among the heaviest individual users of state court systems across the US.”⁹ In fact, “tens of millions of people across the US either owe money to a debt buyer or have in the past.”¹⁰ In 2022, debt-collection lawsuits—brought by creditors and debt-buyers alike—accounted for 4.7 million cases on state civil dockets across the country.¹¹ And in over 90% of those cases, consumer-defendants were unrepresented.¹²

Trends suggest that the number of debt-collection lawsuits filed each year will only continue to climb.¹³ In several states, the debt-collection case

Rebecca L. Sandefur & James Teufel, *Assessing America’s Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 753 (2021).

⁹ HUM. RTS. WATCH, RUBBER STAMP JUSTICE: US COURTS, DEBT BUYING CORPORATIONS, AND THE POOR 1, 13 (2016), https://www.hrw.org/sites/default/files/report_pdf/us0116_web.pdf.

¹⁰ *Id.* at 10–11.

¹¹ Lester Bird & Casey Chiappetta, *Debt Collection Lawsuits Surge to Pre-Pandemic Highs*, PEW (Sep. 2, 2025), <https://www.pew.org/en/research-and-analysis/articles/2025/09/02/debt-collection-lawsuits-surge-to-pre-pandemic-highs>.

¹² *Id.*

¹³ David McClendon & Divia Kallattil, *Consumer Debt Cases Are Surging Again—and One Company Is Leading the Charge*, JAN. ADVISORS (Aug. 29, 2025), <https://www.januaryadvisors.com/consumer-debt-cases-are-surging-again-2024/>; see also Daniel Wilf-Townsend, *Assembly-Line Plaintiffs*, 135 HARV.

filings have surged past 2019 levels, when cases last peaked.¹⁴ And consumer debt and financial insecurity have further exploded following years of inflation and the expiration of pandemic-era financial support and relief programs.¹⁵ Now, debt-buying firms are embracing generative artificial intelligence to increase their volume of filings each year.¹⁶

The problem is even more acute in New York State. In 2018 and 2019, a total of 265,000 consumer debt suits were filed in city and district civil courts.¹⁷ In over 95% of them, the defendants were not represented by a lawyer, and 88% did not even respond to the suit¹⁸—likely because they could not find representation and did not know how to

L. REV. 1704, 1724–36 (2022) (cataloguing debt-collection filings across several years).

¹⁴ McClendon & Kallattil, *supra* note 13.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Andy Newman, *They Need Legal Advice on Debts. Should It Have to Come from Lawyers?*, N.Y. TIMES, Jan. 25, 2022, <https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html>.

¹⁸ *Id.* In this respect, debt-collection proceedings reflect a broader access to justice gap that persists in New York. See PERMANENT COMMISSION ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 29 (Nov. 2018), https://ww2.nycourts.gov/sites/default/files/document/files/2019-10/18_ATJ-Comission_Report.pdf (“Data suggests that the number of unrepresented litigants statewide remains unacceptably high, with percentages in particular case types, such as child support and consumer debt, near or above 90%.”).

represent themselves.¹⁹ As a result, debt-collection suits in New York favored the debt buyer the vast majority of the time.²⁰ From 2019 to 2024, New York state “courts issued roughly 152,000 default judgments against consumers.”²¹ Again, this echoes the broader crisis across the country, with over 70% of Americans losing debt-collection suits by default.²²

¹⁹ See CRIME & JUST. INST., WHAT REALLY PREVENTS COURT APPEARANCE? SURVEY FINDINGS FROM PEOPLE WHO FAILED TO APPEAR IN TWO COUNTIES 4 (2025).

²⁰ THE LEGAL AID SOC’Y ET AL., DEBT DECEPTION: HOW DEBT BUYERS ABUSE THE LEGAL SYSTEM TO PREY ON LOWER-INCOME NEW YORKERS, 8–9 (May 2010) [hereinafter *Debt Deception*], https://www.neweconomynyc.org/wp-content/uploads/2014/08/DEBT_DECEPTION_FINAL_WEB-new-logo.pdf; PERMANENT COMMISSION ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK (Nov. 2022) [hereinafter *2022 Annual Report*], https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/22_ATJ-Comission_Report.pdf (“There are over 100,000 default judgments against consumers per year in New York State.”).

²¹ Julia Rock & Sam Mellins, *Have You Been Sued for Credit Card Debt? Your Fake Relative Might Know.*, N.Y. FOCUS (June 10, 2025), <https://nysfocus.com/2025/06/10/new-york-sewer-service-debt-collection-fraud>.

²² THE PEW CHARITABLE TRS., HOW DEBT COLLECTORS ARE TRANSFORMING THE BUSINESS OF STATE COURTS 2 (2020), <https://www.pew.org/-/media/assets/2020/06/debt-collectors-to-consumers.pdf>; see also FED. TRADE COMM’N, REPAIRING A BROKEN SYSTEM: PROTECTING CONSUMERS IN DEBT COLLECTION LITIGATION & ARBITRATION 7 (July 2010), <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-consumer-protection-staff-report-repairing-broken-system-protecting/debtcollectionreport.pdf> (The Federal Trade Commission estimates that, nationwide, between “sixty percent to ninety-five percent of consumer debt collection lawsuits result in defaults[.]”).

In sum, there continues to be a “growing need for legal assistance in consumer matters.”²³

This lack of representation is not surprising. With the average hourly billable rate for lawyers at \$341 in 2024,²⁴ finding counsel is out of reach for many. And both in New York and nationwide, legal aid and *pro bono* resources are simply insufficient to meet the acute need. Economist and legal scholar Gillian Hadfield, for example, estimates that to offer just one hour of legal advice to every American facing civil legal problems, every one of the nation’s more than one million lawyers would need to volunteer 100 hours annually.²⁵ Yet, in 2022, fewer than 60% of lawyers engaged in *pro bono* work at all, and of that group, about half contributed fewer than twenty-one hours.²⁶ *Pro bono* volunteers and legal aid are, to be

²³ 2022 Annual Report, *supra* note 20, at 54; Comm. on Civ. Ct. & Consumer Affs., *Report on the Consumer Credit Fairness Act*, N.Y.C. BAR (May 28, 2021), https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/report-on-the-consumer-credit-fairness-act#_ftnref9.

²⁴ Sharon Miki, *Legal Statistics for Lawyer’s Success in 2025*, CLIO BLOG (Oct. 22, 2025), <https://www.clio.com/blog/lawyer-statistics/>.

²⁵ Gillian K. Hadfield, *Higher Demand, Lower Supply? A Comparative Assessment of the Legal Resource Landscape for Ordinary Americans*, 37 FORDHAM URB. L.J. 129, 152 (2010).

²⁶ AM. BAR ASS’N, SUPPORTING JUSTICE V: A REPORT ON THE PRO BONO WORK OF AMERICA’S LAWYERS 8 (2025), https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/other-documents/supporting-justice-v.pdf (analyzing *pro bono* commitments in calendar year 2022). A further challenge is that lawyers’ *pro bono* contributions are often counter-cyclical with respect to legal need: When the economy contracts and lost employment and income leads Americans to have more problems with issues such as debt, the extent

sure, important contributors to narrowing the access-to-justice gap—but they come nowhere close to meeting it.²⁷

In an effort to lighten the burden of this crisis on New Yorkers and state courts, the New York State Unified Court System established the Permanent Commission on Access to Justice (Justice Commission), with a mission to “expand access to civil legal services and improve access to justice generally.”²⁸ In its annual reports, the Justice Commission consistently highlights the problem of inadequate legal assistance in debt-collection actions.²⁹ In 2021, the Justice Commission explained that consumer issues were “the most common type of

of lawyers’ *pro bono* service decreases. Rebecca L. Sandefur, *Lawyers’ Pro Bono Service and Market-Reliant Legal Aid*, in PRIVATE LAWYERS AND THE PUBLIC INTEREST: THE EVOLVING ROLE OF PRO BONO IN THE LEGAL PROFESSION 99–114 (Oxford Univ. Press 2009).

²⁷ See Zachariah DeMeola & Michael Houlberg, *To Close the Justice Gap, We Must Look Beyond Lawyers*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. (Nov. 4, 2021), <https://iaals.du.edu/blog/close-justice-gap-we-must-look-beyond-lawyers>.

²⁸ N.Y. STATE UNIFIED CT. SYS., *Permanent Commission on Access to Justice, Overview*, NYCOURTS.GOV, <https://ww2.nycourts.gov/accesstojusticecommission/index.shtml> (last visited Dec. 3, 2025).

²⁹ See, e.g., PERMANENT COMM’N ON ACCESS TO JUST., REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 10 (Nov. 2020), https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/20_ATJ-Comission_Report.pdf; *2022 Annual Report*, *supra* note 20, at 12; PERMANENT COMMISSION ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 56 (Nov. 2023), https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/23_ATJ-Comission_Report.pdf.

civil legal problem facing low-income households, with 50% of households facing at least one consumer problem[.]”³⁰ And the Justice Commission acknowledged that “simply increasing the number of lawyers who represent low-income litigants . . . is insufficient to fully address the justice gap.”³¹ In fact, it *endorses* the use of nonlawyer legal advocates to address these access-to-justice issues.³²

Although access to justice is a widespread concern, it hits certain households and groups in a more pernicious and pervasive manner. According to the Legal Services Corporation, lower-income households bear the brunt of this hardship. In 2021, 74% of low-income households experienced a civil legal problem (for example, a debt-collection

³⁰ *2022 Annual Report*, *supra* note 20, at 54.

³¹ PERMANENT COMMISSION ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 69–71 (Nov. 2024), <https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/2024-Commission-Report-Online.pdf>.

³² *Id.*; *see also* Kourlis & Gorsuch, *supra* note 2 (similarly encouraging states to pursue innovative nonlawyer solutions). For the history of calls for authorization of increase nonlawyer roles in New York, *see* COMM. ON PRO. RESP., N.Y.C. BAR, NARROWING THE “JUSTICE GAP”: ROLES FOR NONLAWYER PRACTITIONERS 9–12 (2013), <https://www2.nycbar.org/pdf/report/uploads/20072450-RolesforNonlawyerPractitioners.pdf>; COMM. ON PRO. RESP., N.Y.C. BAR, PROHIBITIONS ON NONLAWYER PRACTICE: AN OVERVIEW AND PRELIMINARY ASSESSMENT 34 (1995), <https://www2.nycbar.org/pdf/report/uploads/95033-Prohibitionson-Non-LawyerPractice.pdf>; REGUL. INNOVATION WORKING GRP. OF THE COMM. TO REIMAGINE THE FUTURE OF N.Y.’S CTS., REPORT AND RECOMMENDATIONS OF THE WORKING GROUP ON REGULATORY INNOVATION 19–31 (2020), https://www.nycourts.gov/LegacyPDFS/publications/RWG-RegulatoryInnovation_Final_12.2.20.pdf.

complaint or eviction proceeding), and 92% of those problems received inadequate or no legal help.³³ This is especially true for rural communities in New York,³⁴ and it is also especially pronounced for racial minorities.³⁵

Put simply, Americans across the country are struggling with burdensome debt-collection lawsuits, and most of them are doing so without any legal assistance. For Americans who are unable to consult attorneys, “one of the most common responses . . . is to do nothing at all to try to resolve” these lawsuits.³⁶ When people do not assert their legal rights (including, for example, by raising defenses to meritless collection actions), the result is adverse judgments that can have profound consequences on

³³ LEGAL SERVS. CORP., *supra* note 7, at Section III.

³⁴ *2022 Annual Report*, *supra* note 20, at 17–18.

³⁵ For example, the uniquely high amount of default judgments against residents of predominantly African-American communities is apparent. One study, which surveyed judgments over five years in St. Louis, Chicago, and Newark, concluded that “even accounting for income, the rate of judgments was twice as high in mostly black neighborhoods as it was in mostly white ones.” Paul Kiel & Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, PROPUBLICA, Oct. 8, 2015, <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods>; *see also* David McClendon, *Measuring Racial Disparities in Consumer Debt Lawsuits*, JAN. ADVISORS (Aug. 26, 2024), <https://www.januaryadvisors.com/debt-racial-disparities/>.

³⁶ Rebecca Sandefur, *Civil Legal Needs and Public Legal Understanding*, AM. BAR FOUND., https://www.americanbarfoundation.org/wp-content/uploads/2023/04/sandefur_-_civil_legal_needs_and_public_legal_understanding_handout.pdf.

Americans' lives, including mushrooming debt, bankruptcy, and housing insecurity.

These impacts are not limited to the individuals named as defendants in debt-collection proceedings. They also extend to the courts and the justice system as a whole. “The paramount importance of vigorous representation follows from the nature of our adversarial system of justice. This system is premised on the well-tested principle that truth—as well as fairness—is best discovered by powerful statements on both sides of the question.”³⁷ While there is no constitutional right to counsel in most categories of civil (rather than criminal) matters, justice and the rule of law are advanced in our adversarial system when courts are able to hear competent arguments on both sides of a dispute. Yet where, as here, the overwhelming majority of debt-collection cases heard by New York courts result in default judgments—by some counts, more than 85%³⁸—because the defendant failed to appear, the system is not working as it should.

The lack of *any* legal assistance for these individuals—including, for example, the help of nonlawyer Justice Advocates that Petitioners seek to provide—does a great disservice to the courts struggling to adjudicate the tidal wave of these cases.³⁹ In particular, it places a greater burden on

³⁷ *Penson v. Ohio*, 488 U.S. 75, 84 (1988) (quoting Kaufman, *Does the Judge Have a Right to Qualified Counsel?*, 61 AM. BAR ASS'N J. 569, 569 (1975)).

³⁸ See Newman, *supra* note 17; *Debt Deception*, *supra* note 20, at 8–9.

³⁹ See Bird & Chiappetta, *supra* note 11.

these courts (which already manage heavy case-loads⁴⁰) to determine, without the benefit of hearing from the alleged debtor-defendant, whether the collection action in question suffers from jurisdictional or other legal defects, such as a statute-of-limitations bar.

Courts and judges adjudicating these cases deserve better. In particular, they would benefit from having defendants appear and assert relevant defenses, aided by trained and experienced Justice Advocates. A one-sided system in which repeat-player attorneys for debt-collection firms handily outmatch unrepresented individuals who do not understand the complexities of the legal process frustrates justice. As noted, there is simply not enough legal aid and *pro bono* representation available for individuals in these sorts of state-court proceedings. As a result, the advice provided by Petitioners' trained Justice Advocates is surely superior to no representation at all. Indeed, as discussed below, these nonlawyer representatives can and do provide high-quality assistance, often superior to that which generalist attorneys could provide.

⁴⁰ The Small Claims Court of the New York City Civil Court is "one of the busiest Small Claims Courts in the world." See *Welcome*, N.Y.C. SMALL CLAIMS CT., <https://nycourts.gov/COURTS/nyc/smallclaims/welcome.shtml>. With over 40,000 cases filed each year, divided evenly among the 120 Civil Court judges, each judge would have an annual docket of 333 new cases. *Id.*; see also *Judges*, N.Y.C. SMALL CLAIMS CT., <https://ww2.nycourts.gov/courts/nyc/smallclaims/judges.shtml>.

This one-sided system also undermines public confidence in our justice system and the rule of law.⁴¹ Where more than eight out of ten defendants have default judgments entered against them without the court hearing any defense or explanation of their side of the case,⁴² likely because they could not access representation and thus did not show up,⁴³ the public cannot have confidence that the system is working as it should.

The severity of the access-to-justice gap warrants this Court's intervention now. Too many Americans have waited too long for basic legal services, in a country where "equal justice under law" is enshrined on this very Court building. Many have been deprived the opportunity to bring claims or defend cases against themselves simply because "they do not understand their issues to be legal, and thus do not see them as proper objects of legal action or help."⁴⁴ This Court can help alleviate these burdens

⁴¹ Public confidence in the courts is already especially weak among many historically marginalized communities, including those who most acutely experience the lack of representation in legal proceedings. One study found that Black Americans trust courts far less than do White Americans. Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1301–02 (2016). And as discussed, Black Americans experience a disproportionate number of default judgments for economic issues.

⁴² 2022 Annual Report, *supra* note 20, at 18.

⁴³ CRIME & JUST. INST., *supra* note 19, at 4.

⁴⁴ Rebecca L. Sandefur & Matthew Burnett, *Justice Futures: Access to Justice and the Future of Justice Work*, in RE-THINKING THE LAWYER'S MONOPOLY: ACCESS TO JUSTICE AND THE FUTURE OF LEGAL SERVICES 28 (David Freeman Engstrom & Nora Freeman Engstrom eds., 2025).

by clarifying the First Amendment standard for unauthorized-practice-of-law statutes that constrain access to legal services. The Court should act now.

II. Innovation Across the Country Demonstrates the Need for This Court to Clarify the Applicable Legal Standard.

States across the country are engaging in efforts to expand access to justice by relaxing their unauthorized-practice-of-law restrictions to permit nonlawyer specialists in certain areas. Many of these efforts have already proven successful. This Court's guidance concerning the First Amendment guideposts for unauthorized-practice-of-law restrictions will help this innovation continue to flourish.

A. States Across the Country Have Innovated with Programs that Use Nonlawyer Specialists to Address the Access-to-Justice Crisis.

To date, fourteen states and the District of Columbia currently allow or are in the process of allowing nonlawyers to obtain limited authorization⁴⁵ “to provide viable alternatives to hiring a lawyer for uncomplicated legal needs when the client cannot afford a lawyer.”⁴⁶ Twenty more are actively

⁴⁵ *Progress to Date*, FRONTLINE PROGRESS, <https://www.frontlinejustice.org/about>.

⁴⁶ Tara Hughes & Joyce Reichard, *How States Are Using Limited Licensed Legal Paraprofessionals to Address the Access to Justice Gap*, AM. BAR ASS'N (Feb. 2, 2026), <https://www.americanbar.org/groups/paralegals/blog/how-states-are-using-non-lawyers-to-address-the-access-to-justice-gap/>.

developing nonlawyer professional programs or reforms.⁴⁷ These lay specialists reach far more people than lawyers can alone, and in many cases the specialists do a better job than *pro bono* attorneys. Yet none of these programs could exist under the sweeping terms of New York’s unauthorized-practice-of-law statute.⁴⁸

The sections below discuss just a few of these innovations—programs in Alaska, Delaware, Utah and the federal government—to provide a glimpse of the important developments occurring around the country.

Alaska’s Community Justice Worker Program: In 2022, the Alaska Supreme Court began permitting nonlawyer specialists, called community justice workers (CJWs), to provide limited “legal advice and representation.”⁴⁹ These CJWs included

⁴⁷ *Progress to Date*, *supra* note 45.

⁴⁸ See *People v. Alfani*, 125 N.E. 671, 673 (N.Y. 1919) (discussing the breadth of New York’s unauthorized-practice-of-law prohibition). For a discussion of *Alfani* and the history of New York’s unauthorized-practice-of-law regime, see Bruce A. Green, *Civil Justice at the Crossroads: Should Courts Authorize Nonlawyers to Practice Law?*, 75 STAN. L. REV. ONLINE 104 (2023).

⁴⁹ Matthew Burnett, Rebecca L. Sandefur & James Teufel, *Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025)*, AM. BAR FOUND., at 1, <https://www.americanbarfoundation.org/wp-content/uploads/2025/11/ABF-Alaska-Community-Justice-Brief-FIN.pdf>. [hereinafter *Alaska Research Brief*]; Matthew Burnett & Rebecca L. Sandefur, *Justice Work as Democracy Work: Reimagining Access to Justice as Democratization*, 76 S.C. L. Rev. 833, 850 (2025).

staff from shelters and food banks, faith leaders, students, retirees, and other volunteers.⁵⁰ CJWs have taken on a variety of matters, including SNAP benefits, debt-collection defense, domestic violence protection orders, and wills, with plans to expand the program into other areas of law.⁵¹ CJWs have now successfully handled over a thousand cases affecting “roughly 850 households and 2,800 people.”⁵²

Early research indicates that the program has had a “100 percent client success rate.”⁵³ CJWs have been “successful in 100% of assessments of SNAP eligibility” and in 73% of cases the client “documented receipt of SNAP benefits.”⁵⁴ This improved allocation of government programs had positive knock-on effects as well. “Standard techniques for estimating these impacts suggest that these monies resulted in an additional \$14.5 million dollars in benefit to the communities where people received them.”⁵⁵ Beyond SNAP benefits, CJWs “assisted in the completion of 180 wills”—notably reaching often remote indigenous communities.⁵⁶

⁵⁰ *Alaska Research Brief*, *supra* note 49, at 1.

⁵¹ Joy Anderson et al., *Community Justice Workers: Part of the Solution to Alaska’s Legal Deserts*, 41 ALASKA L. REV. 9, 19 (2024).

⁵² *Alaska Research Brief*, *supra* note 49, at 2.

⁵³ Rebecca L. Sandefur & Lucy Ricca, *Outside the Box: How States Are Increasing Access to Justice Through Evidence-Based Regulation of the Practice of Law*, 108 JUDICATURE 59, 62 (2024).

⁵⁴ *Alaska Research Brief*, *supra* note 49, at 2.

⁵⁵ *Id.*

⁵⁶ *Id.*

CJWs were able to reach far more people than attorneys. “By the end of 2024, CJWs were serving nearly 4 cases for every one case served [by] volunteer attorneys.”⁵⁷ The program has also proven to be a particularly efficient investment. “The estimated financial return on investment from public benefit value for people and their communities under a federal grant focused on disaster legal assistance was approximately \$25 of benefit for every \$1 invested.”⁵⁸

Delaware Qualified Tenant Advocates: In March 2022, the Delaware Supreme Court adopted a rule authorizing “legal aid organizations to employ or contract with, train, and supervise Qualified Tenant Advocates” (QTAs).⁵⁹ QTAs are nonlawyer professionals trained to represent tenants in eviction proceedings and related housing matters.⁶⁰ Prospective QTAs must undergo comprehensive training to equip them to deal with all aspects of a matter, including “client intake and case management, case investigation and development, legal writing, negotiation with opposing parties, and participation in court and administrative proceedings.”⁶¹ Since the program’s launch, QTAs have worked on “3,755 housing matters” and “preserv[ed] approximately \$4.8 million in housing-

⁵⁷ *Id.*

⁵⁸ *Id.* at 3.

⁵⁹ James Teufel, Matthew Burnett & Rebecca L. Sandefur, *Research Brief: Analysis of the Social and Economic Impact of Delaware Qualified Tenant Advocates 2-4* (2022-2025), AM. BAR FOUND., <https://www.americanbarfoundation.org/wp-content/uploads/2026/02/Delaware-Qualified-Tenant.pdf>.

⁶⁰ *Id.*

⁶¹ *Id.*

related financial assistance.”⁶² And “the vast majority of cases involving QTAs closed through negotiated settlements or court decisions that produced one or more substantial outcomes for the tenant.”⁶³

What’s more, the data show that QTAs are making housing justice in Delaware more equitable. QTAs serve a wide and diverse demographic of clients: “67 percent of clients identified as Black, 80 percent identified as female, 57 percent reported living with a disability, and 9 percent reported experiencing domestic violence.”⁶⁴ And the positive effects of this program have reverberated beyond QTA’s individual clients to the broader community. For instance, “QTA-assisted cases helped Delaware communities avoid an estimated \$5.43 million in downstream public costs, including expenditures related to emergency shelter, foster care replacements, and disruptions to children’s education.”⁶⁵

Utah’s Regulatory Sandbox: In 2020, Utah launched a regulatory sandbox model whereby entities, like churches and other non-profit organizations, may “seek waivers of existing blanket unauthorized-practice-of-law prohibitions in favor of assessing applicants’ risk of harming consumers and monitoring the impact of admitted entities’ work on consumers.”⁶⁶ The lower the risk a particular entity

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Sandefur & Burnett, *supra* note 44, at 36.

poses (based on an assessment of how far the model departs from traditional models of legal service delivery), the less regulation and oversight the entity is subject to.⁶⁷ Many of the entities that have opted into the regulatory sandbox offer programs like Upsolve’s Justice Advocates. For instance, Holy Cross Ministries, a non-profit organization, has partnered with Innovation 4 Justice “to train and deploy lay medical-debt legal advocates to help people negotiate and resolve their medical debt.”⁶⁸

Over the life of the program, the level of innovation entities have implemented has increased, underscoring the way unauthorized-practice-of-law restrictions can inadvertently stifle creative resolutions to the access-to-justice gap.⁶⁹ Entities that have opted into the sandbox have offered over 70,000 services on a range of issues, “including medical debt, domestic violence protection orders, and expungement.”⁷⁰ The Office of Legal Services Innovation received fewer than ten complaints across all services rendered.⁷¹ Both Justice Gorsuch and former Colorado Supreme Court Justice Kourlis have specifically applauded Utah’s efforts and “encourage[d] others to follow suit.”⁷²

⁶⁷ *Id.*

⁶⁸ Sandefur & Ricca, *supra* note 53, at 62.

⁶⁹ LOGAN CORNETT ET AL., AN INTERIM EVALUATION OF UTAH’S LEGAL REGULATORY SANDBOX PART 3: OUTCOMES EVALUATION 13 (IAALS 2025).

⁷⁰ Sandefur & Burnett, *supra* note 44, at 37.

⁷¹ *Id.*

⁷² Kourlis & Gorsuch, *supra* note 2.

Federal Programs with Nonlawyer Representatives: The federal government also allows representation by nonlawyers in certain administrative hearings. For immigration hearings, over 2,000 federally accredited nonlawyer immigration representatives deal with all sorts of legal matters faced by their clients, including representation in immigration court and before the Board of Immigration Appeals.⁷³ Most of these services are provided by religious, community, and social services organizations, which are authorized by the U.S. Executive Office for Immigration Review to offer legal advice and representation through nonlawyer staff.⁷⁴

To take another example, the U.S. Department of Veterans' Affairs (VA) "authorizes and encourages nonlawyers to assist veterans" in VA adjudications.⁷⁵ In fact, the "vast majority" of veterans dealing with matters, including disability compensation and pension benefits are represented by nonlawyers, making the program one of the largest and longest-running in the country.⁷⁶ The VA accredits nonlawyer

⁷³ Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 STAN. J. CIV. RTS. & C.L. 283, 290 (2020).

⁷⁴ See *Recognized Organizations and Accredited Representatives Roster by State and City*, U.S. DEP'T OF JUST. (Mar. 1, 2026), <https://www.justice.gov/eoir/media/1398081/dl?inline>.

⁷⁵ AMY WIDMAN, NONLAWYER ASSISTANCE AND REPRESENTATION: REPORT TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES 20 (2024), https://www.acus.gov/sites/default/files/documents/Nonlawyer%20Assistance%20and%20Representation%20-%20Final%20Report%202024.12.09_0.pdf.

⁷⁶ *Id.*

Veteran Service Organization (VSO) representatives and claims agents⁷⁷ through a structured process that includes certification, character-and-fitness review, training, and commitment to ethics obligations.⁷⁸ These nonlawyer representatives achieve significant success. VSO representatives and claims agents have an approximate 35% success rate, which is comparable to their attorney counterparts.⁷⁹

The programs discussed above and Petitioners' Justice Advocates share the common marks of sustainable nonlawyer professional programs: comprehensive training and oversight; discrete focus areas; and community-member buy-in and participation.⁸⁰ Their early success shows how impactful nonlawyer assistance can be.

Professor Sandefur's research also suggests that removing antiquated barriers to the use of nonlawyer specialists can increase the likelihood that people will take action to address their civil justice issues:

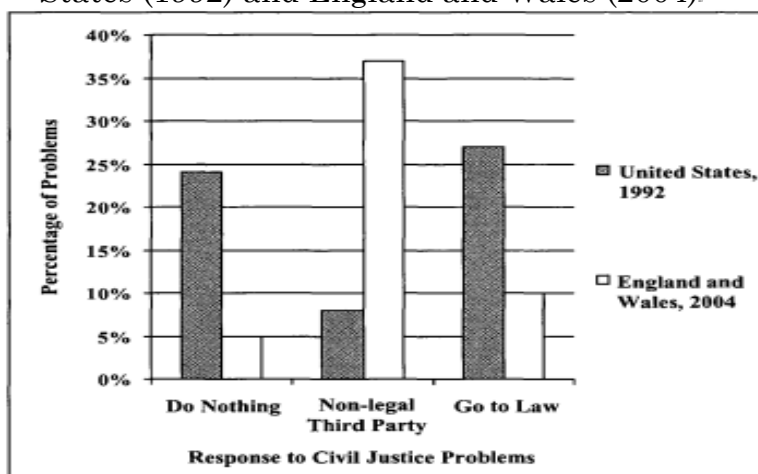
⁷⁷ *Id.* at 72. The only difference between the VSO representatives and claims agents is that claims agents are permitted to charge reasonable fees, while VSO representatives may not. *Id.*

⁷⁸ *Id.* at 73.

⁷⁹ *Id.* at 72 n.255.

⁸⁰ Rebecca L. Sandefur & Matthew Burnett, *Building Successful Justice Worker Programs: Emerging Insights from Research and Practice*, 41 ALASKA L. REV. 23, 29–41 (2024).

A Comparison of How People Handle Civil Justice Problems Involving Money and Housing: United States (1992) and England and Wales (2004).⁸¹



The chart above shows that in the United States, people with access-to-justice problems are nearly as likely to do nothing as they are to seek help from a legal resource. By contrast, respondents in the United Kingdom (specifically, England and Wales) often availed themselves of nonlawyers, such as its

⁸¹ Rebecca L. Sandefur, *Fulcrum Point of Equal Access to Justice: Legal and Nonlegal Institutions of Remedy*, 42 LOY. L.A. L. REV. 949, 969 (2020). Data for the United States are based on 1,077 problems involving housing, real property, personal finances, and consumer needs from a sample of 3,087 households. The reference period for problems is one year. Data for England and Wales are based on 453 problems involving livelihood, other sources of household income, housing security, housing conditions, and debt and credit from a sample of 4,667 individuals. The reference period for problems is three years or since the respondent turned eighteen. *Id.*

Citizens Advice offices, to redress their legal problems.⁸²

In every instance, nonlawyer professionals demonstrated their effectiveness both in handling clients' problems without resorting to costlier legal services and their usefulness in helping clients identify the legal nature of their problems. Wherever nonlawyer professionals are permitted, the evidence shows they make a positive impact by offering a broader range of community members the opportunity to seek justice.

B. Innovating States Across the Country Need This Court's Guidance on the Applicable Legal Standard as They Assess Programs for Nonlawyer Specialists.

As the examples above illustrate, states across the country are exploring ways to use nonlawyer specialists to address the access-to-justice gap. As the benefits of these programs have become increasingly apparent, other states have followed suit.

This Court's guidance concerning the appropriate standard of First Amendment scrutiny for review of unauthorized-practice-of-law restrictions will help states determine how to approach innovative programs such as Petitioners' Justice Advocates program. This includes determining, for example, how to relax any existing

⁸² See also Kourlis & Gorsuch, *supra* note 2 (noting that nonlawyer programs in England “have yielded promising initial results: greater access to courts, at lower costs, with higher rates of client satisfaction”).

unauthorized-practice-of-law restrictions, deciding how to craft exemptions from those restrictions, and understanding what sort of evidentiary record would be needed to withstand constitutional review of any remaining restrictions. In short, this flurry of innovation provides an ideal opportunity for this Court to clarify the legal rules of the road.

Moreover, a decision by this Court confirming Petitioners' correct contention that strict scrutiny applies (*see* Pet. at 14) would likely encourage further innovation, with the beneficial result of helping close the access-to-justice gap. The higher the level of constitutional scrutiny of unauthorized-practice-of-law restrictions, the more incentive state bars—long protective over their monopoly on legal services—have to accept new programs for nonlawyer specialists. As a result, this Court's clarification of the correct legal standard may help foster further innovation.

Because the governing legal standard remains unclear, and because states are currently considering a host of solutions to the access-to-justice gap, the time for clarity is now.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of certiorari.

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APPENDIX

TABLE OF APPENDICES

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APPENDIX A:

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