

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

### Meeting Minutes for August 2, 2023

Meeting held via Zoom  
12:30 p.m.

#### LLLT Board Members in Attendance:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Sarah Bové             | <input type="checkbox"/> Crystal Lambert               |
| <input type="checkbox"/> Margaret Bridewell                | <input checked="" type="checkbox"/> Phyllis Lykken     |
| <input checked="" type="checkbox"/> Jennifer Bull          | <input checked="" type="checkbox"/> Thomi Manker       |
| <input checked="" type="checkbox"/> Christy Carpenter      | <input type="checkbox"/> Carolyn McKinnon (ex officio) |
| <input checked="" type="checkbox"/> Steve Crossland, Chair | <input type="checkbox"/> Jennifer Ortega               |
| <input checked="" type="checkbox"/> John Darling           | <input type="checkbox"/> Athan Papailiou               |
| <input checked="" type="checkbox"/> Deanna George          | <input checked="" type="checkbox"/> Amy Riedel         |
| <input type="checkbox"/> Nancy Ivarinen, Vice Chair        | <input type="checkbox"/> Nicole Searing                |

#### Liaisons in Attendance

- Sunitha Anjivel, BOG Liaison
- Lauren Boyd, BOG Liaison
- Cathy Biestek, WSBA Staff Liaison

#### Other WSBA Staff in Attendance:

- Renata de Carvalho Garcia, Chief Regulatory Counsel
- Bobby Henry, RSD Associate Director
- Terra Nevitt, Executive Director
- Kat Skinner, Law Clerk Lead
- Anne Trent, Paralegal

### PUBLIC SESSION

#### Call to Order / Preliminary Matters

The meeting was called to order at 12:33 p.m. by Chair Steve Crossland.

#### LLLT Board Nominations

The Board voted unanimously to retroactively appoint Nancy Ivarinen as a member for the term October 1, 2022, to September 30, 2025. The Board voted unanimously to approve Sarah Bové's second term beginning October 1, 2023 and ending September 30, 2026. Sarah Bové abstained from the vote on her application.

#### Adjournment

Meeting adjourned at 12:38 p.m. by Chair Steve Crossland

Respectfully submitted,

Cathy Biestek,  
WSBA Staff Liaison to LLLT Board



**Press and Outreach Update: September 11, 2023**

Press
<ul style="list-style-type: none"><li>• IAALS Aims to Make Legal Help Affordable Through National Framework</li><li>• Citing ‘Political Challenges,’ ABA Innovation Center Cancels Op-Ed Advocating Regulatory Reform; In An Exclusive, We Have the Piece They Wouldn’t Publish</li></ul>
Statistics
LLLT Statistics: <ul style="list-style-type: none"><li>▪ <b>Active LLLTs: 82</b></li><li>▪ <b>Inactive LLLTs: 7</b></li><li>▪ <b>Suspended LLLTs: 1</b></li></ul>
Meetings/Events
Upcoming Events: <ul style="list-style-type: none"><li>▪ October 9, 2023 In-person/Hybrid Board Meeting</li><li>▪ January 8, 2023 Virtual Board Meeting</li><li>▪ March 11, 2023 In-person/Hybrid Board Meeting</li><li>▪ May 13-14, 2023 In-person/Hybrid Board Meeting</li><li>▪ July 8, 2023 Virtual Board Meeting</li><li>▪ September 9, 2024 In-person/Hybrid Board Meeting</li></ul>



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## Citing ‘Political Challenges,’ ABA Innovation Center Cancels Op-Ed Advocating Regulatory Reform; In An Exclusive, We Have the Piece They Wouldn’t Publish



By **Bob Ambrogi** on August 3, 2023



Citing “political challenges” within the American Bar Association, and reportedly out of fear of budget cuts or even its own shutdown, the ABA’s **Center for Innovation** canceled publication of an op-ed arguing in favor of regulatory reform, only notifying its authors on the day it was to have been published this week.

This comes as the ABA convenes its **2023 annual meeting** this week in Denver, where the Center faces both budget-review meetings and a change in the composition of the governing council that oversees its work, including, if elected, a new chair who opposes regulatory reform.

The Center had agreed to publish the op-ed as part of its biannual innovation trends report, which was scheduled to be released Aug. 1. Instead, the Center pulled the plug on the piece, fearing its position would be controversial within the ABA and could endanger the Center’s funding or continued existence.

While the Center reportedly made the decision not to publish the piece in June, it did not notify the op-ed’s authors until Tuesday, the day it was scheduled to be published — and only after I inquired about the op-ed’s status.

### **LawNext Has the Full Op-Ed**

Fortunately for readers of LawNext, you can **[read the full op-ed here](#)**. The authors, **Maya Markovich**, executive director and cofounder of the **Justice Technology Association**, and **Tom Gordon**, executive director of **Responsive Law**, an organization that represents the consumers’ voice in the legal system, agreed to allow me to publish it.

***Read: [Opinion: DoNotPay Controversy Illuminates Urgent Need for Regulatory Reform.](#)***

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They will also discuss the op-ed in an episode of my LawNext podcast which will be posted on Monday.

### **Op-Ed on DoNotPay Controversy**

Representatives of the Center declined to speak with me on the record about what happened. **Joseph Gartner**, the Center's director and counsel, referred me to the ABA's media relations office. Others I've reached who serve on the governing council have declined to comment.

Even so, here is what I know.



Op-ed coauthor Maya Markovich

The story begins back in January. Readers may remember the controversy that erupted then over the company **DoNotPay**, which billed itself as the world's first robot lawyer, and its founder **Joshua Browder**. They became the subject of harsh criticism after paralegal **Kathryn Tewson** tested several of DoNotPay's self-help legal apps and concluded they were little more than smoke and mirrors – in some cases getting the law wrong, in others failing even to deliver the promised output.

Tewson's allegations sparked international news coverage, and in their wake, my LawNext podcast had an **exclusive interview with Browder**, in which he called the criticism "a bit of a nothingburger." I followed that interview **with one with Tewson**, in which she described in detail how she tested the DoNotPay products and responded to Browder's dismissal of her critique.

Following those events, Markovich and Gordon co-authored an op-ed in which they argued that reforms in the regulation of the practice of law, such as those implemented in Utah, could have prevented the DoNotPay debacle, since DoNotPay would have had to have been licensed and regulated.

(As I said above, you can **read that op-ed here on LawNext.**)

The Center for Innovation agreed to publish their op-ed in its biannual innovation trends report, which was scheduled to be released Aug. 1.

In anticipation of that publication, I recorded a LawNext podcast interview with Markovich and Gordon in which we discussed their op-ed and their views more broadly on regulatory reform. We agreed that I would post that interview this week, following the Aug. 1 publication of the op-ed.

On Monday, I emailed Gartner, the Center's director, to ask whether the publication would be coming out on schedule and where I would be able to find and link to it. Receiving no response that day, I emailed Markovich and Gordon on the morning of Aug. 1 to ask if they had the link.

As it happens, Markovich was almost simultaneously emailing me regarding an email she'd received from Gartner advising her that the publication had been cancelled and apologizing for not telling her sooner. Reportedly, it was my email to him the day before that spurred him to email her.

Later that day, Gartner also emailed me.

### **Why Did this Happen?**

So why did the Center cancel the publication of this op-ed. Here is what I have been able to piece together.

First, it is no secret that the issue of regulatory reform remains controversial among lawyers generally and most certainly within the ABA. Particularly controversial is the issue of allowing the delivery of legal services by providers that are not lawyers, as Utah did when it **approved sweeping changes in legal services regulation** in 2020.

This was evidenced at last year's ABA annual meeting, when the House of Delegates voted, as **I wrote at the time**, "to send a decidedly mixed message, approving a resolution to double down on its prohibition of non-lawyer ownership, while also amending the resolution to add a nod toward state innovation efforts."

Meanwhile, in recent years, the Center for Innovation, to its credit, has played a key role in driving the national conversation about innovation in the delivery of legal services. Last year, for example, the Center launched a website, **Justice System Metrics**, to catalogue the key metrics and performance indicators that can be used to evaluate progress and innovation in the justice sector.

Gartner, the Center's director, participated in a **special 2021 episode of my podcast** that featured a panel discussion of the issues surrounding regulatory reform.



Op-ed coauthor Tom Gordon

The Center was created in 2016 on the recommendation of the ABA's Commission on the Future of Legal Services, whose 2016 **Report on the Future of Legal Services in the United States** called for, among other things, the ABA to create a center that "would be responsible for proactively and comprehensively encouraging, supporting, and driving innovation in the legal profession and justice system."

Invariably, the Center's work has included consideration of issues around regulatory reform, while taking no decisive position for or against it — at least none that I've seen.

But the Center had already come under fire from some within the ABA for its 2022 innovation trends report, in which it included a favorable piece about Rocket Lawyer's experience in the Utah sandbox.

Some who are familiar with the Center believe that recent events suggest that higher-ups in the ABA are seeking to weaken or even shutter the Center. Two recent events, in particular, gave fuel to this belief:

- Early in June, the ABA's finance committee notified the Center that it would be conducting a review of the Center's budget, with an eye toward determining whether the amount of its budget is justified. Some who are involved with the Center believe this was an attempt to cut its funding significantly or even entirely. Those discussions with the finance committee continue and will be the subject of a meeting next week in Denver.
- Following that, the president-elect of the ABA, **Mary L. Smith**, who will take office this week, nominated a slate to serve on the Center's governing council that reportedly rejected the Center's own recommended slate in favor of individuals who have been openly opposed to regulatory reform.

With Arizona lawyer **Don Bivens'** term as chair expiring, the Center's current governing council and staff had recommended a slate that would replace Bivens with Patrick Palace, the Washington state lawyer who has been the Center's co-vice-chair and who has been an advocate of regulatory reform.

Instead, Smith's slate removes Palace from his spot as a voting member of the council and names as chair New York lawyer **Stephen P. Younger**. Younger has been a vocal opponent of regulatory reform since 2011, when he chaired the New York State Bar's Task Force on Nonlawyer Ownership, and he was a key supporter of the resolution I mentioned above (Resolution 402) that the ABA adopted last year.

In fact, as far as I can determine, all but one of the Center's recommendations for new council leaders and members were rejected — and that one was given a non-voting role as an advisor, alongside Palace and former ABA President William Hubbard.

In place of those names, Smith's slate includes several others who have vocally opposed regulatory reform.

(The slate is subject to vote by the House of Delegates next week. Although I have requested the slate from the ABA, I was told it will probably not be available until after the vote next week.)

### **The Cancellation of the Op-Ed**

Against this backdrop, someone (or several someones) at the Center — reportedly **Thomas Rombach**, the Michigan lawyer and former Michigan state bar president who chaired the Center's innovation report and who also serves on the ABA's Board of Governors — made the decision to cancel publication of the op-ed by Markovich and Gordon. Unfortunately, no one told Markovich and Gordon, at least not until Aug. 1, the day the piece was supposed to come out.

That day, Gartner emailed Markovich the following:

*"I'm reaching out to close an apparent communication gap regarding the article you and Tom Gordon had written about Do Not Pay which Patrick had circulated to the 2023 trends report committee.*

*"In June it was decided that the piece wouldn't be included in the 2023 report. This decision was made after careful consideration and was due to the political challenges the center is currently facing within the ABA. At that point, staff typically communicates with any outside authors but that didn't seem to have happened here as Patrick had advised me you were unaware of this. I deeply apologize for this oversight."*

Later that day, Gartner also emailed me, writing, "The piece was submitted for the CFI trends report but after consideration it was not included. There was a communication gap with Maya and Tom which lead to a misunderstanding about its inclusion in the report."

Gartner, by the way, will reportedly be named this week to lead a new task force on AI that new President Smith will announce during the annual meeting.

### **'Problems of Self-Regulation'**

“This is indicative of the larger problems of self-regulation,” Gordon, the op-ed’s coauthor, told me. “Here you have the group within the lawyer establishment that should be most receptive to discussing lawyer regulation, and they don’t even want to publish this fairly mild critique of the lawyer regulation system. This demonstrates why self-regulation is problematic.”

After speaking with several sources with knowledge of this situation, I have to agree with Gordon. The conclusion seems clear that the Center cut the op-ed out of fear over the political situation within the ABA and that it could exacerbate efforts to undermine or neutralize the Center’s work.

In fairness, the inquiry by the finance committee might well have nothing to do with targeting the Center for its work. It could be related to belt-tightening throughout the ABA. Unlike some divisions of the ABA that generate revenue, the Center generates no revenue and, apart from some grants, is largely dependent on the ABA for supporting its operations.

That means they are more susceptible to budget cuts than other groups within the ABA, regardless of their position on issues such as regulatory reform. But one ABA insider I spoke to conceded that, if the Center angers certain people within the ABA, it will be an even more prime target for budget cutting.

That said, this is not just about the finance review. The cancellation of the article also comes at a time when the Center’s governing body is undergoing a changing of the guard from leadership by Bivens, who has played a central role in Arizona’s regulatory reforms, to Younger, who has outspokenly opposed reforms, and an apparent stacking of that body with others who oppose reform.

For me, the bottom line is this: As the nation’s leading and largest legal organization, the American Bar Association should be driving robust and even-handed discussion and debate of the issues around regulatory reform and access to justice. Instead, the atmosphere within the ABA is such that the very entity within the ABA that should be at the forefront of such a discussion instead feels forced to cancel even a short and relatively mild opinion piece arguing in favor of regulatory reform, out of fear for its future.

Whether some in the ABA like it or not, the world is changing when it comes to the delivery of legal services. As the ABA convenes this week in Denver for its annual meeting, it should be asking itself whether it wants to play a leading role in shaping that changing world — taking into account all views of what that world might look like — or if it would rather stifle any consideration of a future that might be inconsistent with the views of some of its members.



**Bob Ambrogi**

Bob is a lawyer, veteran legal journalist, and award-winning blogger and podcaster. In 2011, he was named to the inaugural Fastcase 50, honoring “the law’s smartest, most courageous innovators, techies, visionaries and leaders.” Earlier in his career, he was editor-in-chief of several legal publications, including The National Law Journal, and editorial director of ALM’s Litigation Services Division.

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## ABOUT LAW SITES

LawSites is a blog covering legal technology and innovation. It is written by Robert Ambrogi, a lawyer and journalist who has been writing and speaking about legal technology, legal practice and legal ethics for more than two decades.

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JUSTIA Law Firm Blog Design





# IAALS Aims to Make Legal Help Affordable Through National Framework

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News •

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August 8, 2023

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Every day in the United States, thousands of people walk into a courtroom alone. Untrained in the American legal system, they're left to face the judge, and oftentimes opposing counsel, by themselves.

"It was out of my reach to even think about hiring an attorney," one woman told researchers at the University of Denver's Institute for the Advancement of the American Legal System (IAALS) (<https://iaals.du.edu/>) as part of a 2016 report on self-representation ([https://iaals.du.edu/sites/default/files/documents/publications/cases\\_without\\_counsel\\_research\\_report.pdf](https://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf)). "It's not really a decision, it's a financial barrier—you can't give what you don't have."

According to IAALS, a national, independent research center focused on improving and advancing excellence in the American legal system, more than 70% of family and civil law cases have at least one party that's self-represented.

"That number is just completely unacceptable," says Michael Houlberg (<https://iaals.du.edu/profile/michael-houlberg>), IAALS director of special projects. "The cards are completely stacked against them."

In 2012, the Supreme Court in Washington state ordered the adoption of the limited license legal technician rule, stating that "we have a duty to ensure the public can access affordable legal and law related services, and that they are not left to fall prey to the perils of the unregulated marketplace."

Since then, 16 states, including Colorado, have implemented or are in the process of implementing these measures, known as allied legal professional programs. These programs allow limited license legal technicians to assist and advise clients on matters related to family law.

In June, IAALS released a national framework ([https://iaals.du.edu/sites/default/files/documents/publications/alp\\_national\\_framework.pdf](https://iaals.du.edu/sites/default/files/documents/publications/alp_national_framework.pdf)) for states to create this new tier of legal professionals. Traditionally, legal education has followed a well-trodden path, often holding theoretical knowledge in higher regard than practical experience.

For Houlberg, allowing allied legal professionals (ALPs), like paralegals, to practice makes the legal system more affordable. While cost depends on the state and practice area, Houlberg says, on average, attorneys charge around \$300-400 an hour and typically require a \$5,000 retainer.

“What we’ve seen with these allied legal professionals is that they’re charging about half [of that],” he says. “Some are also doing a sliding scale based on what the client’s finances look like.”

In its framework report, IAALS makes 18 recommendations covering titles, practice area, role and responsibilities, attorney supervision, in-court representation, training, testing, fee-sharing and regulatory requirements.

According to the report, of the five states with active programs, Arizona and Minnesota allow ALPs to provide in-court representation without an attorney present. With Arizona and Minnesota’s demonstrated success, IAALS recommends all state programs should follow suit.

To keep ALP education affordable, IAALS recommends that states provide different avenues for licensure for people with different levels of education and experience. IAALS also recommends that states consider developing a minimum competency, rather than replicating the bar exam.

While the road ahead is not without challenges, the report has proved to be a helpful resource for states participating in or considering these programs.

“There’s very little accumulated information in this area ... and that’s what’s made it so difficult for other states,” Houlberg says. “We’re not expecting every state to adopt every single recommendation, but they can look at it and be like, this is the data telling us how we can implement this. States realize this is something the legal system needs, and more specifically, the general population. We’re going to see more and more states adopting this over time.”