

Institute for Justice

Arizona Chapter Successfully Challenges State Bar's Power Grab

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Arizona Chapter Successfully Challenges State Bar's Power Grab:

Keeps Independent Paralegals in Business

By Tim Keller

The Institute for Justice Arizona Chapter (IJ-AZ) recently caught the State Bar with its hand in the cookie jar. The Bar petitioned the Arizona Supreme Court to adopt a rule prohibiting consumers from hiring non-lawyers to “prepare any document in any medium intended to affect or secure legal rights for a specific person or entity.”

The proposed rule would have shut down more than 200 independent paralegals and document preparers who currently offer Arizonans a low-cost alternative to high-priced attorneys and would have made the legal cartel the sole provider of paralegal services. The Bar claimed it had received 400 consumer complaints against “non-lawyers” practicing law in Arizona.

IJ-AZ met with the Arizona Association of Independent Paralegals and confirmed its members capably prepared routine legal documents. Given the complexity of our legal system, there is a pressing need for alternative, affordable legal service providers.

The Arizona Chapter immediately went to work in the court of public opinion to expose the Bar's attempt to crush its competition. IJ-AZ also sent a letter to Arizona's Chief Justice detailing our opposition to the proposed rule and our commitment to protecting economic liberty in the court of law.

We got the cartel's attention.

Bar officials at once requested a meeting with the Institute's Arizona Chapter and shortly thereafter the Chief Justice formed an ad hoc committee to explore regulating rather than prohibiting independent paralegals. IJ-AZ did not participate as a member of the committee so as to not compromise our ability to challenge any onerous regulations ultimately adopted.

But before the committee was officially organized, the Chapter went to bat for the independent paralegals on one crucial matter: gaining access to the alleged 400 complaints. Up to this point the Bar had denied anyone access. How could the committee craft regulations to protect consumers from harm if only a select few committee members understood the harm consumers were purportedly suffering?

The court staff overseeing the creation of the committee recognized that the independent paralegals would never sit down at the table without reviewing the complaints. The staff then strongly suggested that the Bar permit us an opportunity to inspect the complaints.

IJ-AZ led a team of lawyers and independent paralegals into the heart of the State Bar's office and our findings truly shocked us. Of the supposed complaints that had been submitted to the Bar we found that:

123 were nothing more than flyers advertising paralegal services and estate seminars

26 were actually against licensed attorneys

74 were filed by lawyers, not consumers

24 were complaints against 13 disbarred attorneys

Perhaps most telling of all: only 11 complaints were filed by consumers against an independent paralegal. And these are only a representative sample of our findings.

IJ-AZ submitted the results of our survey in the form of a public comment on the proposed rules and concluded that the Bar's petition was nothing more than a solution in desperate search of a problem. Once these findings were made a public record, the Supreme Court's ad hoc committee worked diligently and adopted a reasonable licensing scheme that satisfied IJ-AZ's concerns.

In January, the Supreme Court adopted a Legal Document Preparer certification program much to the relief of hundreds of independent paralegals who no longer face extinction.

IJ-AZ's efforts were recently lauded by the East Valley Tribune for "throwing legal muscle behind a fledgling industry that has expanded consumer choice in an important area." This is a terrific victory for IJ-AZ and the Grand Canyon State.

Tim Keller is an Institute for Justice Arizona Chapter attorney.