



AFFORDABLE LAW TASK FORCE

Confronting the Access to Justice
Crisis of Modest Means Marylanders

2023



AFFORDABLE LAW TASK FORCE

The Maryland State Bar Association and the Maryland Access to Justice Commission partnered to launch the Affordable Law Task Force, which focused on: surveying the national landscape for best practices and innovations to provide civil legal services to Marylanders of modest means; analyzing the viability for adoption in Maryland; and making recommendations on how the state and local bars can incorporate efforts to meet the access to justice needs of modest means Marylanders.

Maryland Access to Justice Commission

The Maryland Access to Justice Commission (A2JC) exists to ensure civil justice for all Marylanders. A2JC is an independent entity that is powered by the Maryland State Bar Association (MSBA). A2JC unites leaders to make the civil justice system accessible, equitable and fair for all Marylanders.

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Maryland State Bar Association

Maryland State Bar Association (MSBA) is the leading advocate for the legal profession in Maryland, empowering its members with resources, opportunities, and a strong sense of community to succeed in their practice while promoting ethical standards and advancing the cause of justice for all.

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EXECUTIVE SUMMARY

Many access to justice efforts rightfully focus on providing free civil legal services to the most vulnerable among us, who are often described as persons and families whose household income falls below the Federal Poverty Line. Ten percent of Maryland households fall in this category, but an additional 28% are the working poor and fall into what the United Way calls the “ALICE threshold.” ALICE stands for Asset Limited Income Constrained Employed. ALICE households do not make enough money to survive and meet their family’s basic needs (e.g. food, shelter and childcare)—let alone hire legal help—despite being hard-working and employed.

Modest means Marylanders or households fall into a unique access to justice predicament: they make too much money to qualify for free civil legal aid, yet they do not make enough to be able to pay market rate for a lawyer. The result is a modest-means access to justice gap, wherein this cohort does not have many viable options to receive any civil legal help. Not receiving timely civil legal help can have dire consequences and can result in further financial hardship. Thus, out of the box thinking and tailored access to justice solutions are required to ensure that all Marylanders can have a fair shake at civil justice, regardless of their income. The Affordable Law Task Force was tasked with confronting this problem and recommending solutions.

A partnership between the Maryland State Bar Association and the Maryland Access to Justice Commission, the Affordable Law Task Force is the first statewide coordinated initiative to confront the issue of providing legal services to modest means Marylanders. The Task Force undertook its work by conducting an audit of existing services in Maryland; surveying Maryland lawyers to learn of the efforts of the private bar; and researching and conducting in-depth interviews with representatives

of organizations from across the United States who are serving modest means clients.

The Task Force found that there were only three nonprofit legal services organizations providing services to modest means Marylanders and a handful of tools, but that the Maryland Judiciary had invested substantially in Court Help Centers



that provided brief advice in civil matters, without income limitations.

Additionally, and with some surprise, we also learned through the attorney survey that there were solo and small firm attorneys in the private bar who were providing or wanting to provide services to modest means Marylanders; however, few were using legal technology, or incorporating paralegals and other allied paraprofessionals. Attorneys who were already providing services and those who wanted to, sought help through templates/checklists and sample motions; pre-screening of cases; and CLEs for common modest means cases; and training in limited scope representation. We also learned that attorneys were taking reduced fee cases because of a desire to use their law degree to help people. They made it financially sustainable by accepting cases that were less complex; where they already had expertise; and limiting the percent of reduced cost cases they provided. This indicated that attorneys interested in providing services to modest means clients were doing so on a limited basis, rather than building a modest means practice.

The Task Force also learned from other states and experts around the country that Maryland already had many of the building blocks in place for legal services to modest means Marylanders to thrive, including organizations with modest means panels, rules

allowing for limited scope representation and some fee-shifting statutes, availability of employer-based legal insurance, and very modest uptake of legal technology and allied legal professionals. It did not have, however, any centralized hub for information or resources for attorneys offering these services or for clients seeking them. Further, Maryland was far behind on having discussions about regulatory reforms, let alone adopting them. States that were early adopters of regulatory reforms were at the forefront of innovation by certifying paralegals to provide legal services in certain areas; allowing non-lawyer ownership of law firms; and experimenting with a mix of legal technology, allied legal professionals and attorneys to build a multi-tiered legal system to meet the demand for legal services.

As the Task Force undertook the first full scale statewide exploration of how to serve Marylanders of modest means, the Task Force understood the need for more in-depth study to flesh out some of the interventions. It centered its efforts on identifying interventions that were financially viable and sustainable, scalable, and had an ability to have mass impact. There was a mixed desire among the Task Force to take a measured approach, but also a realization that in many ways Maryland is well behind many other states in trying to address this yawning gap in legal services for modest means individuals and needed to act with urgency.

After 18 months of study and analysis, the Task Force made these recommendations for the Maryland State Bar Association and the Access to Justice Commission:

- 1** Serve as a thought leader and the coordinating entity for providing legal services to modest means clients by convening and working in partnership with all relevant justice stakeholders, the judiciary and bar associations.
- 2** Expand existing efforts to provide legal services to modest means clients.
- 3** Conduct additional research that can help inform future progress and innovations to serve modest means clients.
- 4** Normalize discourse related to regulatory reform of the legal profession.
- 5** Partner with modest means nonprofits to establish a pilot project in either family law or estate planning.
- 6** Form a group that will work to implement recommendations of this Task Force and conduct additional research that can help inform future progress and innovations to serve modest means Marylanders.

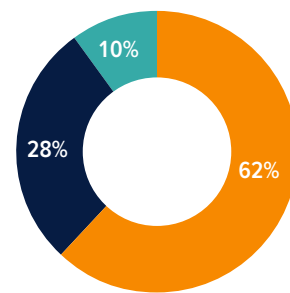
THE PROBLEM OF PROVIDING LEGAL SERVICES TO MODEST MEANS MARYLANDERS

THE ALICE THRESHOLD

Most access to justice efforts focus primarily on low-income Marylanders who fall below the Federal Poverty Line (FPL). Ten percent or 245,077 Maryland households¹ fall below the FPL. The FPL annual income for a family of four in 2021 is \$30,000.²

Yet, an additional 28% or 654,721 Maryland households, regardless of their employment, do not earn enough income necessary for basic survival. Their income puts them above the FPL, but they live in dire financial hardship and cannot afford basic necessities. The United Way categorizes these households as “Asset Limited Income Constrained Employed” or ALICE.

The ALICE Household Survival Budget, which includes the barest necessities for survival like rent, utilities, food, childcare, transportation, healthcare and technology is \$81,948 in 2021 for a family of four, a striking 2.7 times greater than the FPL.³



■ FPL - 245,077 MARYLAND HOUSEHOLDS
■ ALICE - 654,721 MARYLAND HOUSEHOLDS
■ MARYLAND HOUSEHOLDS ABOVE ALICE THRESHOLD

FIGURE 1:
SOURCE: UNITED WAY, ALICE IN THE CROSSCURRENTS: COVID AND FINANCIAL HARDSHIP IN MARYLAND (2023)⁴

\$30,000 is the FPL annual income for a family of four in 2021

VS

\$81,948 is the cost of bare necessities for survival

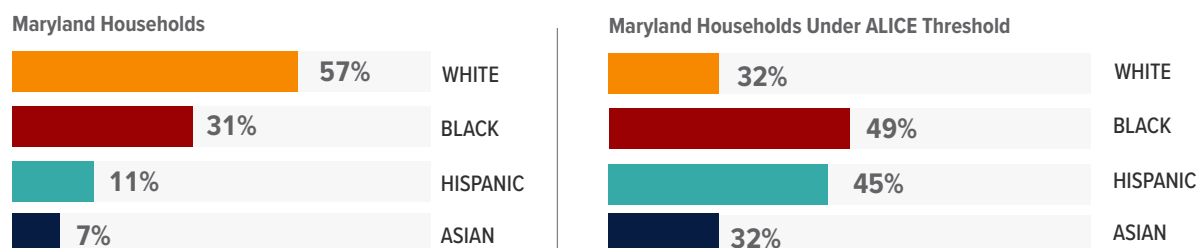
1 United Way, *ALICE in the Crosscurrents: COVID and Financial Hardship in Maryland* (2023): <uwcm.org/alice> (last checked on May 11, 2023).

2 U.S. Department of Health and Human Services, *Annual Update of the HHS Poverty Guide*, (2023): www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines (last checked May 11, 2023).

3 United Way, *ALICE in the Crosscurrents: COVID and Financial Hardship in Maryland*, p. 4 (2023): [uwcm.org/files/23UFA_Report_Maryland_4.11.23_Final_\(1\).pdf](https://uwcm.org/files/23UFA_Report_Maryland_4.11.23_Final_(1).pdf).

4 *Id.*

Comparison of Racial Breakdown of Maryland Households v. Maryland Households Under ALICE Threshold



The United Way thus calculates that 899,798 households or 38% out of the 2.3 million total households in Maryland suffer financial hardship.⁵

Further, the demographic breakdown of ALICE households reveals racial and other inequities. While approximately **57%** of Marylanders are White, **31%** Black, **11%** Hispanic, and **7%** Asian, there is a disproportionate representation of Black (**49%**), Hispanic (**44%**) and Asian (**32%**) households under the ALICE threshold⁶

A whopping 70% of single female-headed households with children and 58% of single male-headed households with children fall within the ALICE threshold, as compared to 17% who are married with children. However, there is no discernable difference in the working poor in urban versus rural households, with 39% ALICE households in urban areas and 38% in rural areas.

39% VS 38%
Households in urban areas vs rural areas
that fall under ALICE

ALICE HOUSEHOLD SURVIVAL BUDGET, MARYLAND AVERAGE, 2021

MONTHLY COSTS	2 ADULTS, 1 INFANT, 1 PRESCHOOLER
HOUSING — RENT	\$1,159
HOUSING — UTILITIES	\$292
CHILD CARE	\$1,538
FOOD	\$1,247
TRANSPORTATION	\$787
HEALTHCARE	\$853
TECHNOLOGY	\$110
MISCELLANEOUS	\$599
TAX BEFORE CREDITS	\$1,503
MONTHLY TOTAL	\$8,088
ANNUAL TOTAL BEFORE CREDITS	\$97,056
TAX CREDITS (CTC AND CDCTC)	(\$15,108)
ANNUAL TOTAL WITH CREDITS	\$81,948
FULL-TIME HOURLY WAGE	\$40.97

FIGURE 2

SOURCE: UNITED WAY, ALICE IN THE CROSSCURRENTS: COVID AND FINANCIAL HARDSHIP IN MARYLAND (2023)⁷

⁵ *Id.*

⁶ U.S. Census Bureau, *Race and Origin*, www.census.gov/quickfacts/fact/table/MD/BZA115221 (last checked on May 11, 2023).

⁷ United Way, *ALICE in the Crosscurrents: COVID and Financial Hardship in Maryland* (2023): uwcw.org/alice (last checked on May 11, 2023).

THE CIVIL JUSTICE SYSTEM AND FREE CIVIL LEGAL AID

The civil justice system (the non-criminal justice system) covers the legal aspects of many life-altering issues such as housing, consumer debt, special education, elder abuse, domestic violence, immigration, child custody, life planning, public benefits and more. In Maryland, the number of cases in the civil justice system dwarfs the number in the criminal justice system.

83%
OF STATE COURT CASES
ARE CIVIL CASES

In FY2021, 700,752 (approximately 83%) of the 842,119 state court cases in the District and Circuit Courts in Maryland, excluding traffic and juvenile, were in the civil, not criminal, justice system.⁸

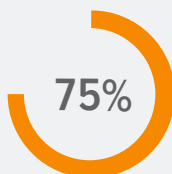
Unlike in the criminal justice system, in most types of civil legal cases, there is no right to an attorney if you cannot afford one. Thus, chronically underfunded civil legal aid organizations have come into existence to fill this access to justice gap. Civil legal aid organizations offer a combination of free services and resources to low-income Marylanders to help them effectively and fairly navigate the complex civil justice system.

In Maryland, eligibility for free civil legal aid rests on a number of factors, including a family's household income. For example, grantees of the Maryland Legal Services Corporation (MLSC), the state's largest funder of free legal help, can assist households up to a maximum of 50% of the Maryland Median Income (MMI). The MMI for a family of four for FY2023 is \$127,853. Thus, an MLSC-funded organization could provide free civil legal help to households making up to a maximum of \$63,927 annually.⁹ However, to add a level of complexity, the federal Legal Services Corporation (LSC), which is the largest funder of civil legal aid in the United States, only serves low-income households up to 125% of FPL, which for FY2023 for a family of four in Maryland is only \$37,500. Hence, the range for households to be deemed over-income for free civil legal aid in Maryland falls between \$37,500 to \$63,927 for a family of four.

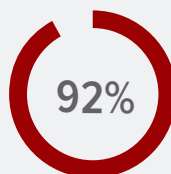
THE DEMAND FOR CIVIL LEGAL AID

While there is no official study on the civil legal needs of persons who do not qualify for free civil legal aid, the research surrounding the civil legal needs for persons under the FPL can be instructive.

A recent 2022 Justice Gap study by LSC¹⁰



Low-income Americans who fall below the FPL faced at least one civil legal problem in the past year.



Yet, 92% of the civil legal problems faced by low income Americans received no or insufficient legal help.

⁸ Maryland Judiciary Data Dashboard, (n.d.): datadashboard.mdcourts.gov/menus/4/sub-menu/7/activity.

⁹ Maryland Legal Services Corporation, *Client Income Eligibility Guidelines*, (FY2023): www.mlsc.org/wp-content/uploads/2023-MLSC-Income-Guidelines-Final.pdf.

¹⁰ Legal Services Corporation, *Housing Insecurity and Legal Aid*, (n.d.): www.lsc.gov/.

For example, low-income clients identified "concerns about the cost of legal help" as a key reason why they did not seek or receive legal help.¹¹

Another proxy for the scope of unmet need for those who do not income-qualify for free civil legal aid may be the use of the Maryland Court Help Centers, which provide free advice to Marylanders regardless of income. In FY2022, the Maryland Court Help Centers provided more than 187,000 instances of assistance to unrepresented Marylanders.¹² According to the Maryland Judiciary's publication "Resources for Self-Represented Litigants in Maryland Courts," 61% of remote users and 50% of in-person users of the Court Help Centers had incomes of \$30,000 or greater,¹³ suggesting that Marylanders who are above the FPL and in the ALICE threshold are seeking civil legal help. However, because the Court Help Centers cannot provide assistance beyond brief advice, many users, particularly those with complex or life-altering civil legal issues, may leave the centers still in search of legal representation.

THE IMPACT OF LEGAL REPRESENTATION

Success Rate of an Appeal when Public Benefits Were Denied

40-45%

70-80%

- PUBLIC BENEFITS REINSTATED WITHOUT LEGAL REPRESENTATION
- PUBLIC BENEFITS REINSTATED WITH LEGAL REPRESENTATION

Research shows that representation by counsel results in markedly better outcomes for litigants. One Maryland study found that in appeals where public benefits were denied, the rate of reversal for the unrepresented was 40–45%, whereas the rate of reversal for the represented doubled to 70–80%.¹⁴

In another Maryland study looking at the impact of counsel on consumers sued by debt buyers, 71% of the cases were dismissed for those who were represented v. 23% for those who were unrepresented.¹⁵

In yet another Maryland study, the rate of acquiring a protective order with counsel was 83%, but without counsel was 32%.¹⁶

71% VS 23%

Cases dismissed for those who were **represented** vs **unrepresented** when sued by debt buyers

83% VS 32%

Acquiring a protective order **with counsel** vs **without**

MARKET RATE TO HIRE AN ATTORNEY

If a Maryland household does not qualify for free civil legal aid, they are often expected to pay full market rate to hire an attorney. With few viable options in between, a Maryland household that does not qualify for free civil legal aid is often expected to pay full market rate to hire an attorney. According to CLIO's 2022 Legal Trends Report, the average hourly rate charged

¹¹ Legal Services Corporation, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*, (2023): justicegap.lsc.gov/.

¹² Resources for the Self-Represented in the Maryland Courts (mdcourts.gov), p. 3.

¹³ Resources for the Self-Represented in the Maryland Courts (mdcourts.gov), p. 7, 11

¹⁴ Advisory council of the Maryland Legal Services Corporation, *Put Action Plan for Legal Services to Maryland's Poor* (1988), 12.

¹⁵ Peter Holland, evaluation of the pro bono resource center consumer protection project (2013), at p. 6–7, as referenced in www.mdcourts.gov/sites/default/files/import/mdatjc/taskforcecivilcounsel/pdfs/finalreport201410.pdf

¹⁶ Jane C. Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 AM. U. J. GENDER SOC. POL'Y & L. 499, 511 (2003).

by Maryland attorneys is \$319 and by non-attorney legal professionals is \$163.¹⁷ While the market rate for attorneys in Maryland varies by size of office and practice area,¹⁸ we can confidently surmise that paying market rate for an attorney would prove prohibitive for ALICE households who struggle to afford basic day-to-day expenses regardless of the substantial negative impacts on their family's home, safety and welfare.

THE MODEST MEANS MARYLANDER

From the information provided above, we can identify cohorts of Marylanders who may have a high-demand for civil legal aid, but do not qualify for the free legal services offered, and have an inability to afford market rate for legal services:

- » Marylanders between 50% of MMI (\$63,927) and the ALICE threshold (\$81,948);
- » Marylanders who fall within the \$35,700 to \$63,927 range, but may not qualify for free civil legal aid based on a civil legal aid organization's income guidelines;
- » Marylanders who are turned away from free legal services because of lack of capacity; and
- » Marylanders above the ALICE threshold who may be able to meet their basic needs and survive, but may still not be able to afford market rate legal services.

This report captures all these cohorts and defines them as the modest means Marylander or the modest means household. Used interchangeably, both terms connote a Marylander or Maryland household that earns too much to qualify for free civil legal aid, but not enough to pay market-rate to hire an attorney if faced with a civil legal problem.

THE MODEST MEANS JUSTICE GAP

Based on the income constraints of the modest means Marylander, we can infer that this cohort—which is almost three times the size of the low-income population—is receiving insufficient legal help to resolve their civil legal problems due to issues related to affordability of market rate legal services.

The market failure that results, wherein the demand for legal services by modest means Marylanders far exceeds the supply of services offered by the approximately 40,000 attorneys in Maryland, is the justice gap for modest means Marylanders. Without civil legal help, modest means Marylanders may be vulnerable to extra-judicial fraud and abuse and be limited in their ability to vindicate their rights on their own. They may be under constant threat of facing dire consequences that can destabilize families, communities, and businesses, and entangle them in a downward spiral that affects their homes, livelihoods, and safety.

Thus, even though modest means Marylanders are employed, they remain in a financial predicament with respect to civil legal aid. This is the effective denial of access to justice for hard-working Marylanders.

Modest means Marylanders' lack of access to justice requires innovative thinking and a set of interventions to make the civil legal services accessible to them, in a way that is economically and politically viable, and sustainable for the attorneys providing these essential services.

The Affordable Law Task Force was created to confront the access to justice challenges facing modest means Marylanders.

¹⁷ CLIO REPORT, *2022 Legal Trends Report*, (2022); www.clio.com/wp-content/uploads/2022/09/2022-Legal-Trends-Report-16-02-23.pdf. 2022-Legal-Trends-Report-16-02-23.pdf (clio.com), p. 70.

¹⁸ *Id.*, p. 72

THE AFFORDABLE LAW TASK FORCE

In order to tackle the justice gap faced by modest means Marylanders, the Maryland State Bar Association and the Maryland Access to Justice Commission created the Affordable Law Task Force (hereinafter “Task Force” or “ALTF”), the first coordinated statewide effort dedicated to addressing issues faced by modest means Marylanders.

Prior to the formation of the ALTF, the Maryland Access to Justice Commission (A2JC) the high-level Maryland Attorney General’s COVID-19 Access to Justice Task Force (A2JTF), which did a sweeping review of the civil justice system and had recommendations related to “low bono” legal services. Former Attorney General Brian Frosh served as Chair of the A2JTF, with A2JC Executive Director, Reena Shah serving as Vice Chair and then President of MSBA, Hon. Mark Scurti, serving as one of the members of the A2JTF. In its final report delivered in January 2021, entitled, “Confronting the COVID-19 Civil Justice Crisis,” one of the key recommendations was for Maryland leaders in the General Assembly, Executive Agencies, Maryland Bar, and Judiciary to “increase access to legal assistance and related legal support services for Marylanders who cannot afford them through adequate and sustainable civil legal aid funding and enhanced pro bono and “low bono”¹⁹ services.”²⁰ Specifically elaborating on the “low bono” piece, the report stated:

Expanding the effectiveness of the civil legal aid system will also require new support from Maryland lawyers, including expanded provision of . . . “low bono” services. These attorneys are an essential part of the civil legal aid system and need additional support. Doing this will require leadership throughout the Maryland Bar . . .”

¹⁹ “Low bono” services are often used as a shorthand for reduced fee legal services that serve modest means clients.

²⁰ Brian E. Frosh, *Confronting the COVID-19 Access to Justice Crisis* (2021): www.marylandattorneygeneral.gov/A2JC%20Documents1/AGCovid_A2J_TF_Report.pdf.

To begin the work of implementing these recommendations, the A2JC established a Committee on Pro Bono and Low Bono at the start of the 2022 fiscal year. At the same time, M. Natalie McSherry, began her term as President of the MSBA and included access to justice for modest income Marylanders as a focus of her year.

Through this confluence of events, the Maryland State Bar Association and Maryland Access to Justice Commission partnered to launch the Affordable Law Task Force, with the purpose of understanding the range of strategies and interventions that were in existence to serve modest means clients and make recommendations to bolster civil legal services available to modest means Marylanders.

To gather information in order to achieve its objectives, the ALTF conducted a three-pronged examination in which it:

- 1 Surveyed Maryland law-related organizations to identify those which deliver legal services to modest means Marylanders;
- 2 Surveyed Maryland lawyers to learn how they are providing services to modest means clients and the challenges they might face in delivering those services; and
- 3 Researched reports on the topic and conducted in-depth interviews with representatives of organizations from across the United States, including Maryland, in order to discover the range of ways legal services are or could be delivered to modest means Marylanders.

EXISTING SERVICES AND TOOLS IN MARYLAND TO SERVE MODEST MEANS MARYLANDERS

ORGANIZATIONS THAT DELIVER LEGAL SERVICES TO MODEST MEANS MARYLANDERS

In July 2022, the Task Force surveyed the leaders of 57 Maryland bar associations and legal services organizations to identify those that deliver legal services to modest means Marylanders. Only two organizations reported currently offering "low bono" programs and we were alerted to a third organization that did not take part in the survey. This demonstrates the dearth of legal services available to modest means Marylanders. The two organizations that provide services to modest means Marylanders are listed below.

Civil Justice, Inc.²¹

Civil Justice (CJ) is a Maryland non-profit increasing the delivery of legal services to clients of low and moderate income while promoting a statewide network of attorneys who are committed to providing legal help at affordable rates. CJ has Foreclosure and Economic Justice Programs as well as a Lawyer Referral Service, through which approximately 2,000 Marylanders are referred to CJ's attorney network annually.



²¹ Civil Justice, Inc: civiljusticeinc.org/.

Shore Legal Access (formerly Mid-Shore Pro Bono)²²

Mid-Shore Pro Bono (MSPB) is a nonprofit serving the Eastern Shore in housing, family, elder, and consumer debt law. It provides free legal services to clients up to 50% of MMI and connects clients between 50% and 70% of MMI to a panel of attorneys who accept cases at a flat rate, on a sliding scale, or at a reduced rate of \$150/hour or less. MSPB screens and provides case management when needed.

Employment Law Center of Maryland²³

The Employment Law Center of Maryland provides affordable legal representation to Marylanders in employment matters, including wrongful termination, harassment, unpaid wages, and discrimination. The firm uses a scaled fee system where consumers may choose to pay an hourly rate (\$210) or a contingency plan where a client pays \$420 monthly for unlimited attorney time, if the client wins the case. The firm also uses an AI tool called CoCounsel to help create efficiencies. The tool uses plain language and completes time-intensive tasks like legal research, document review, drafting memos and reviewing contracts, deposition preparation and more in just minutes.²⁴

LEGAL RESOURCES AND TOOLS AVAILABLE TO MODEST MEANS MARYLANDERS

In addition to these three organizations, there are several other resources and tools at the disposal of modest means Marylanders.



RESOURCES

The People's Law Library of Maryland²⁵

The People's Law Library is an award-winning legal information and self-help website maintained by the Thurgood Marshall State Law Library, a court-related agency of the Maryland Judiciary. The website's content development is supported by the state law library as well as the state's civil legal aid providers, pro bono attorneys, and academic community. It provides self-represented litigants information about the law, including summaries of the law, and links to primary and secondary legal sources. The website also has a directory of legal service organizations and links to websites of legal providers that may be able to assist Marylanders in resolving a civil legal matter.

Maryland Law Libraries²⁶

The Maryland Judiciary has an affiliated network of law libraries across the state, including the Thurgood Marshall State Law Library and 24 Circuit Court Law Libraries. Nine of these libraries have library staff available to help a diverse clientele including judges, attorneys, and self-represented litigants with legal information, research, reference and resources, without income restrictions.

²² Shore Legal Access (formerly Mid-Shore Pro Bono): shorelegal.org/.

²³ Employment Law Center of Maryland: www.elcmd.org/.

²⁴ *The Frederick News Post*, Frederick nonprofit law firm adopts AI tool to improve efficiency, access, May 14, 2023 at www.fredericknewspost.com/news/science_and_technology/frederick-nonprofit-law-firm-adopts-ai-tool-to-improve-efficiency-access/article_2db0ad09-ddaa-5098-8746-81583d0900cf.html.

²⁵ The People's Law Library of Maryland: www.peoples-law.org/.

²⁶ Maryland Law Libraries: mdcourts.gov/lawlib/using-library/for-librarians/maryland-law-libraries.

Maryland Court Help Centers²⁷

The Maryland Judiciary's Court Help Centers offer free legal help in the form of brief advice in civil cases for individuals who do not have a lawyer, without any income restrictions. These Centers are a crucial resource for modest means Marylanders and serve as an on-ramp to legal assistance. The Court Help Centers can be accessed via phone and chat from 8:30 a.m. to 8:00 p.m. and many courts have in-person services available as well. Most Circuit Courts in Maryland have Family Self-Help Centers, and approximately 10 District Courts have walk-in centers in courthouses where Marylanders can receive free legal help from lawyers, paralegals or court staff and legal advice from lawyers. The District Court Help Centers assist Marylanders to represent themselves in court with common civil legal issues, like landlord/ tenant, consumer debt and small claims, domestic violence, and expungement.



TOOLS

Maryland Justice Passport²⁸

The Maryland Justice Passport is a user-based, trauma-informed empowerment tool that allows Marylanders seeking legal help to keep themselves organized through a digital portfolio. The Justice Passport travels with the user on their journey to find civil legal help among almost 40 civil legal aid providers offering free legal help and among 40,000 private attorneys. The tool can be utilized by the person seeking legal help to track where they have applied to receive legal services; store important documents related to their case; keep information related to the case organized; and store a case summary that can be shared with service providers to avoid the stress and trauma of re-telling their story repeatedly. Currently, the Justice Passport is being used to streamline referrals between Maryland Court Help Centers and civil legal aid organizations, but it is in the process of being expanded to make referrals for modest means Marylanders seeking access to affordable legal help within the private bar.

The Maryland Custody & Divorce Client Notebook²⁹

The Maryland Custody & Divorce Client Notebook is a physical, paper-based notebook that a client can use to navigate a family law case from start to finish. The Notebook helps the user understand key legal issues; get organized and store documents and evidence in one place; and keep track of important case dates. The Notebook empowers clients to navigate portions or the entire case on their own or with the help of an attorney on a limited basis. This tool could be helpful to modest means Marylanders who may be able to pay for some legal assistance, but would need to handle other parts of their family law case on their own.

²⁷ Maryland Court Help Centers: www.mdcourts.gov/helpcenter.

²⁸ Maryland Justice Passport: www.mdjusticepassport.org/.

²⁹ Maryland Custody & Divorce Client Workbook: www.peoples-law.org/workbook.

SURVEY OF MARYLAND ATTORNEYS PROVIDING LEGAL SERVICES TO MODEST MEANS MARYLANDERS

In November 2022, the Task Force surveyed Maryland attorneys to gain their perspectives on the types of services they are offering to clients of modest means and the challenges they may be facing when offering said services. The survey qualified respondents by determining whether they could set their own rates and by their interest or experience in this kind of work. The Task Force is grateful to the three hundred (300) respondents who participated. While not every respondent completed every question, a sufficient number responded as to provide a sense of their collective perspective.

RESULTS AND KEY TAKEAWAYS FROM AFFORDABLE LAW TASK FORCE ATTORNEY SURVEY

Three Hundred (300) Maryland attorneys filled out the survey. From these, 242 were able to set their rates and provided reduced fee legal services to clients of modest means. 86.4% of survey respondents who are offering services to modest means clients are either solo practitioners (61.2%) or work in a small firm with two to nine lawyers (25.2%).



SOLO PRACTITIONERS OUT PACE OTHER LAWYERS IN OFFERING SERVICES TO MODEST MEANS MARYLANDERS

	SOLO PRACTITIONER	OTHER
Are currently offering legal services at a reduced rate to make them more accessible to modest means clients.*	61.5%	55.1%
Want to offer legal services at a reduced rate to make them more accessible to modest means clients.*	14.7%	11.2%
Tried to offer legal services at a reduced rate to make them more accessible to modest means clients, but I paused or stopped.*	18.9%	16.9%
Have never wanted to or tried to offer legal services at a reduced rate to make them more accessible to modest means clients.	4.9%	16.9%

**Most reported deciding to offer/consider reduced-cost services to help people.*

An important finding is that attorneys are offering modest means legal services to clients out of a desire to help people, rather than for financial reasons.

In response to the question “what made you decide or consider offering services to modest means clients,” the top two responses chosen by respondents with 59.5% and 51.4% respectively were associated with the sentiment that “they entered the law to help people” and “they wanted to help the large population of people who needed it.

One attorney stated, “I have a very successful practice and believe I have a duty to provide representation to some low or pro bono clients.”

Most respondents (43.7% of 158) reported taking 1-5 reduced-cost cases in the past 12 months. 17.7% took 5-10 cases and 15.8% took 10–20 cases in the past 12 months, but 5% took more than 50 cases in the past year. **This tells us that most attorneys are trying to take a few affordable law cases a year and mixing these with full market rate cases, but about 5% of those who responded seem to have a practice built on providing affordable legal help.**

One attorney captured this sentiment by saying, “I could take one of these clients at a time and only during a time I project having sufficient profits from other matters.”

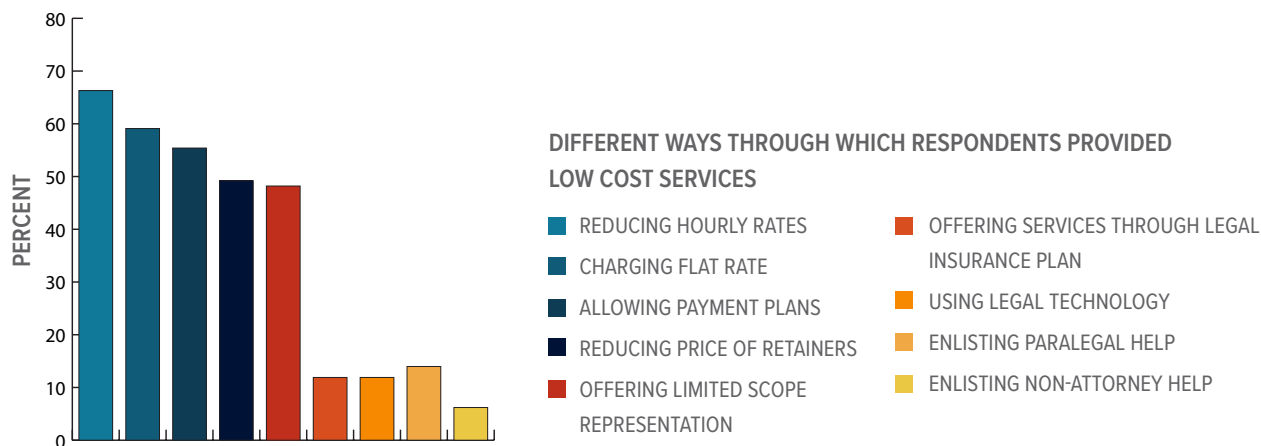
59.5%

of respondents said they entered the law to help people

51.4%

of respondents wanted to help the large population of people who needed it

Experience with Providing Reduced-cost Services



Most respondents provided low cost services by reducing hourly rates (**66.3%**), charging a flat rate (**59.1%**), or allowing installment payments or payment plans (**55.4%**). In addition, almost half reported reducing the price of retainers (**49.2%**) or offering limited scope representation (**48.2%**). However, very few respondents were offering services through a legal insurance plan (**11.9%**); using legal technology (**11.9%**); enlisting the help of paralegals (**13.98%**); or enlisting the help of other non-attorneys (**6.2%**). The areas that were not being utilized - like legal insurance, using legal technology or using allied paraprofessionals - seemed like the areas of most opportunity for growth to help financially sustain and grow these efforts.

The types of cases most frequently offered as limited scope representation were family law (44.6%) or life planning documents (43.8%), with fewer in landlord/ tenant law (25.9%) and business law (24.1%). In comparison, there were low percentages associated with small torts (11.6%), immigration (9.8%) and bankruptcy (8%).

When asked what types of cases attorneys are handling for a flat rate, the responses varied greatly, but the top responses were in these substantive areas: estate planning, family law, criminal law and bankruptcy.

When asked about criteria used to determine whether to offer services at a reduced rate, 87.3% of respondents reported adjusting cost based on the client's ability to pay; 60.8% reported reducing cost based on the complexity of the case; and 45% respondents adjusted cost if the client was in dire straits; and 44.2% if the client is a friend of the family.

"Typically [I] don't take on complex cases so I can afford the requisite attention without excessive time and burden,"

Challenges related to serving clients of modest means include: communicating with the client (46.3%); "reaching" a client (42.6%); and a client's technology literacy (38.3%)

Business Models for Providing Reduced-cost Services

When asked how they offer legal services to clients of modest means in a financially sustainable way, respondents reported the following models most frequently: accepting cases where they already have expertise (67.2%); accepting cases with limited complexity (52.8%); and limiting the percentage of reduced cost cases (47.8%)

When asked to identify challenges from the perspective of their business operation, respondents identified the following business challenges: complex cases were too expensive (54.9%); difficulty recovering payment (48.6%); inability to make a profit (44%). Some of the issues underlying the difficulty were expressed in responses with lower response rates: could not verify income (29.7%); unable to scale or grow a practice (21.7%); prevented due to ethical constraints with limited scope representation (20.6%)

Maryland State Bar Association Support

Attorneys who are already offering reduced-cost services were asked what MSBA support would be most helpful to them. In response, **57.5%** of respondents requested templates for documents and checklists/ forms/ sample motions; **30.0%** said pre-screening of cases; and **25.6%** named affordable translation services.

Attorneys interested in offering affordable legal services were asked what support, if provided by the MSBA, would encourage them to offer legal services to modest means Marylanders. Their answers were similar to those above. **35.7%** requested pre-screening of cases; **21.4%** requested checklists/ forms/ motions/ templates; and **21.4%** requested training in limited scope representation.

When asked to specify technology used in practice, attorneys responded with the following:

- Acuity for scheduling client meetings
- Smokeball
- DirectLaw.com
- WealthCounsel - estate planning document drafting
- Best Case for bankruptcy preparation
- MyCase
- Rocket Matter
- Canva to create videos and infographics
- WiseTime AI timekeeping
- Zoom
- Practice Panther Case Management
- Clio to streamline intake, automate client emails, client portal, billing, document creation, trust accounting

What MSBA Support Would Be Helpful in Serving Modest Means Clients?

Requests from Respondents Who Already Offered Reduced-Cost Services

57.5% templates for documents and checklists/ forms/ sample motions | **30%** pre-screening of cases | **25.6%** affordable translation services

Requests from Respondents Interested in Offering Reduced-Cost Services

35.7% pre-screening of cases | **21.4%** checklists/ forms/ motions/ templates | **21.4%** training in limited scope representation

The survey results tell us that there is a need for a resource bank filled with information, templates, checklists, sample motions and forms. It also tells us that attorneys are struggling with pre-screening clients, with translation services, and are requesting more training to help them build their affordable law practices.

SUMMARY OF INITIATIVES THAT DELIVER LEGAL SERVICES TO MODEST MEANS CLIENTS



INFORMATION GATHERING

The Task Force conducted online research, collecting and reviewing reports and publications related to legal services for modest means clients. It also engaged in dialogue with modest means experts from around the country. A list of the experts the Task Force convened and met with between December 2021 and September 2022 is included in Appendix II. We thank these experts for giving us their time and providing us with insights to understand, on a deeper level, the interventions they were applying to serve modest means clients in their states.

SUMMARY OF PROGRAM MODELS FOR DELIVERING LEGAL SERVICES TO MODEST MEANS CLIENTS

Through this thorough examination, the Task Force gathered information and gained an understanding of the different types of programs and initiatives being implemented around the country to serve modest means clients. They are listed below.

Modest Means Panel

A modest means panel is a panel of lawyers who commit to serving people of modest means in specified areas of the law at below market or reduced rates. Areas of law covered generally include family law, bankruptcy and consumer law, housing law, and others. A trusted and established institution such as a bar association, law school or non-profit assembles and administers the panel. Examples include the Washington State Bar Association Moderate Means Program,³⁰ and the Arizona Foundation for Legal Services & Education's Modest Means Project.³¹ The institution intakes and matches clients with lawyers either through online systems such as A2J Author®, or dedicated staff, or a combination of both, and screens the lawyers for qualifications and the clients for neediness. Maryland has two organizations that host modest means panels - Civil Justice and Mid Shore Pro Bono - with Civil Justice functioning much like the modest means panels that operate in other states.

Alternative Fee Arrangements

While hourly billing is still standard at most firms, one way to serve clients of modest means is to adopt alternative fee arrangements (AFAs) that can increase price transparency and make the cost of legal services more predictable and clear from the start. CLIO's 2020 Legal Trends Report³² finds that “78% of consumers say that lawyers should adopt pricing and payment models to make legal services more affordable,” while the right mix of fee arrangements can result in a law firm being both “cost-accessible and profitable.”³³

Reduced Fee

A reduced fee means a fee below market rate. Attorneys and firms may reduce the hourly rate, the rate for the retainer, or offer lower flat fees for legal services. Sixty six percent (66%) of respondents in the Maryland ALTF Attorney Survey indicated that they provided low cost services by reducing their hourly rates.

Flat or Fixed Fees

Under flat-fee pricing or in a flat-fee arrangement, there is a fixed price for services offered, rather than prices based on hourly rates. This model is generally used by attorneys when the work has a predictable time frame and is not complex. The flat fee structure removes uncertainty in cost for clients. According to the ALTF Attorney Survey, some Maryland attorneys are currently offering flat rate services in estate planning, family law, criminal law, and consumer bankruptcy. Additionally, flat fee pricing lends itself well to the discrete tasks performed in a limited scope practice.

Sliding Scale

A sliding scale fee for legal services is a predetermined fee that a legal services provider charges a client based on the nature of the matter and objective facts about the client, such as income and family size. It is an alternative to a fee structure based strictly on a lawyer's time. A legal services provider can use a sliding scale fee structure either exclusively as does Charleston Legal Access,³⁴ or in conjunction with other fee structures, as does the Washington State Bar Association Moderate Means Program.³⁵ The Pricing Toolkit,³⁶ which is a guide for lawyers who want to “learn how to price based on value instead of time” published by The Chicago Bar Foundation.³⁷

30 Pro Bono & Public Service, *Moderate Means Program*, (2022): wsba.org/connect-serve/pro-bono-public-service/mmp.

31 Arizona Foundation for Legal Services & Education, *Modest Means Project*, (n.d.): www.azflse.org/modestmeans/.

32 *CLIO REPORT*, 2020 Legal Trends Report, (2020): www.clio.com/resources/legal-trends/2020-report/.

33 *CLIO*, Alternative Fee Arrangements for Law Firms: 9 Examples: <https://www.clio.com/blog/alternative-fee-arrangements/>.

34 Charleston Legal Access: www.charlestonlegalaccess.org/.

35 Washington State Bar Association Moderate Means Program: wsba.org/connect-serve/pro-bono-public-service/mmp.

36 *The Chicago Bar Foundation*, *The Pricing Toolkit*: adifferentpractice.com/?smd_process_download=1&download_id=3285.

37 *The Chicago Bar Foundation*: chicagobarfoundation.org/.



Payment Plans

Modest means clients may have difficulty paying their whole bill at once, even if the price is reduced. Indeed, survey data from CLIO's 2020 Legal Trends Report indicates that 72% of consumers would prefer to pay their legal fees on a payment plan.³⁸ Setting up a mutually agreed-upon payment plan may allow a client of modest means to pay in a way they can afford.

However, attorneys who took the ALTF survey also highlighted that there is a risk associated with payment plans. Almost 25% of respondents asserted that it was “tough to administer payment plans” and 48.6% respondents said they had “difficulty recovering payment.”

Limited Scope Representation or Unbundled Services

Limited scope representation is an alternative to full-service representation, where instead of an attorney handling every task in a legal matter from start to finish, the client retains the lawyer only for certain parts of the case and handles the remaining parts on their own. It is akin to ordering from an a la carte menu for legal services.

The Institute for the Advancement of the American Legal System's (IAALS) 2022 report³⁹ observes that the model is becoming “widespread,” as it

provides a triple benefit to modest income clients, attorneys, and courts. Clients of modest means presumably benefit because it would cost less to hire attorneys for discrete tasks, rather than the whole case. Lawyers would see a benefit in being able to expand their client base beyond those who could afford full-service representation. Finally, courts benefit from efficiency if self-represented litigants receive some counsel.⁴⁰

Owing much to the work of the Judiciary-based iteration of the Maryland Access to Justice Commission,⁴¹ the Maryland Rules of Civil Procedure authorized Limited Scope Representation in Maryland in 2015.⁴² Additionally, forms are available on the Maryland Judiciary website allowing Marylanders to acknowledge their consent to limited scope representation.⁴³ Despite seven years since the rule change, it is unclear how many Maryland attorneys and clients are taking advantage of limited scope representation. (A quick internet search on the subject reveals that at least some Maryland attorneys are advertising their limited scope services.⁴⁴)

At the same time, the IAALS report as well as anecdotal evidence from the members of the Task Force suggest that historical hesitation on the part of both lawyers and judges is holding back the mass uptake of this model in Maryland. While the Maryland Judiciary was the prime mover in adopting limited scope representation, private lawyers still raise concerns that their limited scope agreements with clients may be rejected by judges, forcing them to remain on cases beyond the agreed-upon tasks.

For example, a specific issue brought to the attention of the Task Force was how the Maryland

³⁸ CLIO REPORT, 2020 Legal Trends Report, (2020): www.clio.com/resources/legal-trends/2020-report/.

³⁹ IAALS, Unbundled Legal Services in the New Normal: iaals.du.edu/publications/unbundled-legal-services-new-normal#:~:text=The%20report%20provides%20a%20fresh,for%20productization%20of%20legal%20services.

⁴⁰ Unbundling Resource Center (americanbar.org).

⁴¹ Maryland Access to Justice Commission, LIMITED SCOPE REPRESENTATION IN MARYLAND A White Paper of the Maryland Access to Justice Commission (2009)

⁴² Md. R. Civ. P. Cir. Ct. 2-131 and 3-131.

⁴³ www.courts.state.md.us/sites/default/files/import/courtforms/joint/ccdc095.pdf.

⁴⁴ See www.honglelaw.com/limited-scope-representation; www.hhlawworks.com/family-law/limited-representation.

Electronic Court (MDEC) system, which requires electronic filing and is the system used in most Maryland jurisdictions, does not have a field to allow clarity on the scope of representation for an entering attorney. For attorneys trying to enter only a limited scope appearance, this omission in MDEC leads to confusion in the courts and keeps the attorneys on the hook, even after the conclusion of their limited appearance. Attorneys are then required to take the additional step to strike their appearance and communicate with clients, causing a chilling effect on the part of the attorney to engage in limited scope representation.

Uptake at scale will require the Judiciary and the State Bar to work together to assuage these concerns, as outlined in IAALS's report.⁴⁵

Affordable Law Firms

An affordable law firm is a nonprofit or for-profit law firm that charges fees below market rates (reduced fees) to serve modest means clients. Such a law firm uses a diverse variety of tools to offer services at below market rate, including employing AFAs, employing limited scope representation, or using legal technology to create efficiencies and economies of scale.

The Task Force heard from the DC Affordable Law Firm,⁴⁶ which is a nonprofit law firm whose aim is to serve clients at 200% to 400% of FPL (which for a family of four translates to between \$60,000 and \$120,000). The law firm is sustained mainly through generous charitable and in-kind donations and support, with income from client fees making up a small percent of the revenue. To lower costs, it also recruits recent law school graduates to serve in 15-month fellowships to provide legal representation to modest means clients.



The Employment Law Center of Maryland is a nonprofit law firm in Maryland which employs a cutting edge legal technology called CoCounsel to cut down time on cases and reduce costs. The organization also provides the consumer options to choose between an hourly rate or a monthly subscription to receive unlimited attorney time.⁴⁷

For-profit affordable law firms also exist. These law firms often occur in a solo or small firm setting, with traditional attorneys and paralegals, who offer below market rates by charging flat fees or employing other modest means strategies. In Maryland, for example, the Law Office of Leonard Englander,⁴⁸ (which was found via a Google search) employs “unbundled/limited” legal services, flexible fee structures, limited retainers and reduced fees for income-qualifying clients.

Sliding Scale Law Firms

A sliding scale law firm is a type of affordable law firm. The Task Force heard from Charleston Legal Access,⁴⁹ a nonprofit law firm that provides affordable assistance to moderate income persons by charging hourly fees that vary based on a client's income and family size. Charleston Legal Access handles civil matters, including housing, education,

⁴⁵ IAALS, Unbundled Legal Services in the New Normal: iaals.du.edu/publications/unbundled-legal-services-new-normal#:~:text=The%20report%20provides%20a%20fresh,for%20productization%20of%20legal%20services.

⁴⁶ DC Affordable Law Firm: www.dcaffordablelaw.org/.

⁴⁷ Employment Law Center of Maryland: elcmd.org.

⁴⁸ The Law Office of Leonard Englander: lawenglander.com/

⁴⁹ Charleston Legal Access: www.charlestonlegalaccess.org/.



consumer rights, public benefits and civil rights and serves clients up to 400% of FPL. It provides free initial consultations; 1-2 hour case consultations for a flat fee of \$50 - \$100; and retention in cases for between \$500 to \$1000. The website states that the law firm has helped 1100 individuals and families since 2016. Client fees only make up 15% of the total revenue for the firm, with the remainder coming from grant funding and private donations.

Community Lawyers of Iowa, PLC, for example, is a sliding scale for-profit law firm that proudly advertises on its website sliding scale hourly fees, where a person between 0% and 120% of FPL pays \$120/ hour while a person earning between 320% to 360% of FPL, pays \$240/ hour, just below the firm's hourly market rate of \$250/ hour.⁵⁰

The Cost-Share Model

A cost share model is an arrangement where the government subsidizes some or all of the cost for an activity deemed to be a public good. South Dakota, for example, identified a need for lawyers in rural communities where, in 2013, the state had “8 counties without a single attorney, 19 counties with only 1-3 attorneys, and 13 counties with

just 4-6 attorneys.” To remedy the dearth of rural community lawyers, the state launched the Rural Attorney Recruitment Program,⁵¹ which “provides qualifying attorneys an incentive payment in return for five (5) continuous years of practice in an eligible rural county.” The payment amount for each year is “90% of one year’s resident tuition and fees at the University of South Dakota School of Law.”

Fee-Shifting

Fee-shifting disrupts the general rule that each party to a lawsuit must pay his or her own legal fees regardless of outcome. Fee-shifting refers to statutes that permit the court to award attorneys fees, generally to a prevailing plaintiff. Under fee-shifting statutes, clients generally do not pay advance fees or retainers, and attorneys collect payments through the fee-shifting provision or a settlement agreement.⁵² Through fee-shifting, low-income or modest means individuals who lack the resources to engage an attorney have a path to bring forth their legal claims with a small or no payment.

For example, if a plaintiff sues alleging an unfair or deceptive action, Maryland’s Consumer Protection statute allows the court to award reasonable attorney’s fees in addition to damages.⁵³ In this manner, plaintiffs can obtain representation at little or no upfront cost because the attorney may be paid as part of a settlement or judgment.

Jane Santoni of Santoni, Vocci & Ortega, LLC,⁵⁴ a Maryland law firm, has built a financially sustainable law practice grounded in fee-shifting. The firm helps modest means clients who would otherwise be unable to obtain relief while being financially sustainable.

Legal Incubator

Based on business incubator models, legal incubators support the creation of new law firms

⁵⁰ Community Lawyers of Iowa, Sliding Scale Fee Chart | communitylawyersiowa.com (communitylawyersofiowa.com).

⁵¹ Rural Attorney Recruitment Program: ujs.sd.gov/Attorneys/RuralRecruitment.aspx.

⁵² American Bar, *Reinventing the Practice of Law*, (n.d.): www.americanbar.org/groups/delivery_legal_services/reinventing_the_practice_of_law/topics/fee_shifting/.

⁵³ Md. Code, Commercial Law, §13-408(b).

⁵⁴ Santoni, Vocci & Ortega, LLC: www.svolaw.com/.

to primarily serve low or modest means clients by providing space, mentoring, and training to licensed lawyers. The ABA Standing Committee on the Delivery of Legal Services⁵⁵ published a Comprehensive Survey of Lawyer Incubators in 2016, noting that incubator programs exposed lawyers to flat fee, unbundled legal services, and sliding scale fees models that are commonly employed to reduce the cost of legal services.

However, program sustainability is the most significant challenge to address for this model. A 2021 ABA Study on legal incubators⁵⁶ similarly concluded that while legal incubator programs support the career development of lawyers interested in starting solo and small firm law practices who serve primarily low and moderate income clients, and while these lawyers are generally satisfied with their professional lives, many indicate significant concern about their financial instability.

An example of a legal incubator that the Task Force heard about directly was the Seattle School of Law Incubator Program,⁵⁷ which provides law school graduates with training, guidance and resources to help alumni launch and maintain a solo or small firm practice focused on serving moderate-income clients. Successful applicants receive office and conference room space, mentorship, structured peer support, CLEs that offer practical skills needed to launch and sustain a successful incubator practice, law library and online research access, and networking opportunities. This incubator program is sustained through private donations.

Maryland similarly has experimented with legal incubators in the past. It had a brief pilot program called the Law Entrepreneurs for Access Program (LEAP),⁵⁸ which was a joint effort between the University of Baltimore

School of Law, the University of Maryland Francis King Carey School of Law, MSBA, and Civil Justice, but when its initial grant expired, the program did not have funding to continue.

Employer-Based Legal Insurance

Employer-based legal insurance refers to an employer benefit that provides insurance that pays for legal services. Like a healthcare insurance policy, a legal insurance policy can have a network of approved providers, covered services, premiums, deductibles, and caps, all determined by the employment contract. As with a healthcare policy, the coverage afforded by a legal insurance policy likely depends on the size of the employer. Several major employers in Maryland, like Johns Hopkins University and CareFirst, offer legal insurance as a paid employee benefit. The state of Maryland and some counties also include some version of legal assistance as part of their employee assistance programs. An example of an insurance company that offers legal insurance is MetLife,⁵⁹ whose explained their legal insurance plans to the Task Force.

Allied Professionals

There are different ways in which non-lawyer paraprofessionals or allied legal professionals can serve people in need of civil legal aid through a tiered system that provides everything from legal information to legal representation and everything in between.

Public Librarians & Other Information Experts

The Maryland Access to Justice Commission and the Conference of Maryland Court Law Library Directors have partnered to offer legal reference training to public library staff to empower

55 ABA Standing Committee on the Delivery of Legal Services, *2016 Comprehensive Survey of Lawyer Incubators* 3, www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_comprehensive_survey_lawyer_incubators.pdf [hereinafter "Incubator Program Report"], p. 33.

56 Briana Morris, *Legal Incubator Survey 2021*, (2021): www.americanbar.org/content/dam/aba/publications/center-for-innovation/deliveryoflegalservices/delivery-legal-incubator-survey-2021.pdf.

57 Seattle University School of Law, Incubator Program: www.law.seattleu.edu/centers-and-institutes/access-to-justice-institute/public-interest-careers/incubator-program/.

58 Briana Morris, *Legal Incubator Survey 2021*, (2021): www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_comprehensive_survey_lawyer_incubators.pdf. See also: Keller blog, *UPDATES/University of Baltimore School of Law*, (2018): ublawnaccolade.wordpress.com/2017/02/08/ub-maryland-law-grads-chosen-for-leap-incubator-program/.

59 MetLife, *Legal Plans*, (n.d.): www.metlife.com/insurance/legal-plans/.

public librarians to provide legal reference and referrals to patrons in their community who may be seeking legal information. Other information experts, such as those who field questions on United Way's 211 system, have also become part of the access to justice ecosystem in Maryland by guiding people to civil legal aid organizations as part of a coordinated system of intake to implement the access to counsel in evictions law.

Law Librarians

Law librarians are allied professionals who have specialized knowledge in the law, legal reference, and legal resources. They are available to help a diverse clientele with legal research, including judges, attorneys, and self-represented litigants, without any income restrictions.

Maryland has a network of law libraries across the state, including the Thurgood Marshall State Law Library and 24 Circuit Court Law Libraries, 9 of which have library staff available to help patrons in their community with legal information and resources.

Navigators

Navigators are non-lawyers who are tasked with helping clients navigate court processes and forms, under the supervision of an attorney. Navigators work on a range of case types such as family, housing, debt collection, domestic violence, conservatorship, and elder abuse. A report by the Justice Lab at Georgetown Law⁶⁰ that summarizes navigator programs across the country demonstrates that well-trained and appropriately supervised navigators can perform a wide array of tasks. Navigator program managers are mindful of admonitions against nonlawyers providing legal advice and take the need for quality assurance measures seriously.

The University of Baltimore (UB) in Maryland has operated a Court Navigator Pilot Project

since 2017.⁶¹ Court navigators at UB are undergraduate, graduate, and law students who have been trained about how the court works and can help an unrepresented person navigate the steps of the court process. Court navigators perform tasks similar to other navigators: providing litigants with basic information about their legal options, assisting them with filling out court forms, going with them into the courtroom hearings and into hallway negotiations, and aiding with any followup steps afterward. They also help litigants to organize their paperwork, figuring out budgets, and getting access to resources. In other words, they are helping unrepresented people pursue their legal cases more effectively than when they go it alone.

Paralegals

Rule 19-301.2 of the Maryland Rules of Professional Conduct⁶² governs the responsibilities of lawyers regarding the work of non-lawyer assistants, including paralegals. The Rule sets forth requirements for lawyers to ensure that paralegals are appropriately supervised, trained, competent, able to maintain confidentiality, do not misrepresent their qualifications; comply with legal and ethical standards and most critically, do not engage in the unauthorized practice of law (UPL). Paralegals are able to provide legal information, e.g. explaining the law without rendering advice. Currently, there are no specific requirements in Maryland to be a paralegal. Paralegals become so either through experience or education.

Regulatory Reform

Often identified as one of the key barriers to access to justice in addition to the unaffordability of legal services, is the regulation of legal markets which is entirely controlled by the legal profession and the judiciary, and over which the state courts have power.⁶³ Reforming legal regulations, including the unauthorized practice of law (UPL) and ownership

60 *The Justice Lab at Georgetown Law Center, Nonlawyer Navigators in State Courts: An Emerging Consensus* (2019): www.ncsc.org/___data/assets/pdf_file/0024/53691/Justice-Lab-Navigator-Report-6.11.19.pdf.

61 University of Baltimore Law School, Court Navigator Pilot Program: www.ubalt.edu/academics/prelaw/court-navigator-pilot-project.cfm.

62 Maryland Rules of Professional Conduct, Rule 19-301.2: www.courts.state.md.us/attygrievance/rules

63 Gillian K. Hadfield, *Innovating to Improve Access: Changing the Way Courts Regulate Legal Markets*, (2014): papers.ssrn.com/sol3/papers.cfm?abstract_id=2419308.

of law firms, are thought to be the critical frontiers to providing legal services to low and modest means individuals at mass scale. While the topic of regulatory reform is largely eschewed by the legal community, the Task Force learned that these reforms are already being adopted and at a fast pace in other states. Further, the Task Force gleaned that lawyers and the legal profession and the legal profession need to engage thoughtfully on the subject as legal technology and consumer demand are likely to force transformations, whether the legal profession wants them or not.

A recent Stanford Law report⁶⁴ assessing the outcomes of the regulatory reforms related to the Regulatory Sandbox in Utah (described in detail below) and the allowance of law firm ownership by Alternative Business Structures in Arizona (below) delivers five key insights: (1) regulatory reform is spurring innovation in business structure and delivery models; (2) lawyers are playing a central role in the innovation: they are the “owners, employees, compliance officers, supervisors, and investors in the new entities;”⁶⁵(3) most of the entities are using technology to deliver services in new ways; (4) UPL reform appears to be critical in serving low income populations; (5) reform efforts thus far do not pose a substantial risk of harm to the consumer.⁶⁶

Licensed Paraprofessionals

IAALS’s comprehensive report on Allied Legal Professionals documents that many states have or are currently developing programs⁶⁷ to make paralegals eligible to earn a limited legal license that allows them, with proper education and experience, to provide legal services in certain areas of the law, with or without the supervision of an attorney. The purpose of establishing such programs is to reduce cost and develop a tier of



paraprofessionals akin to nurse practitioners or physician’s assistants in the healthcare industry.

Washington State was the first state to license paraprofessionals in 2012, calling them Limited License Legal Technicians (LLLTs); but notably, it is also the first state to sunset its program in 2020. The Supreme Court of Washington voted 7–2 to sunset the program, stating that due to “the overall costs of sustaining the program and the small number of interested individuals . . . the LLLT program is not an effective way to meet these needs.”⁶⁸ However, a letter in dissent called the

64 David Freeman Engstrom, Lucy Ricca, Graham Ambrose, and Maddie Walsh, *Legal Innovation After Reform: Evidence From Regulatory Change*, (2022): law.stanford.edu/wp-content/uploads/2022/09/SLS-CLP-Regulatory-Reform-REPORTExecSum-9.26.pdf.

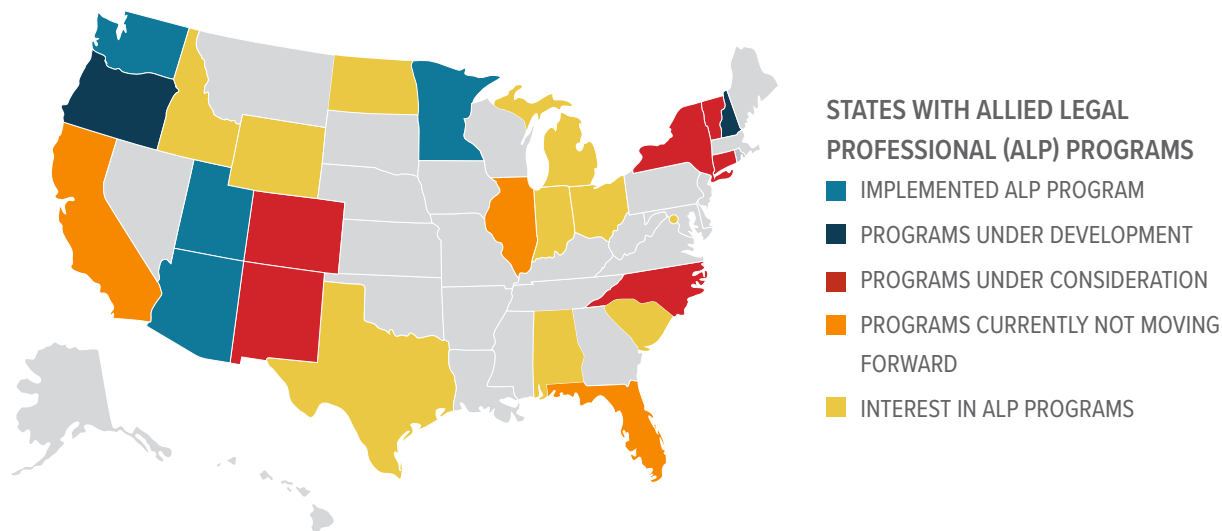
65 David Freeman Engstrom, Lucy Ricca, Q&A with Sharon Driscoll, *Stanford Law Report on Legal Innovation After Reform*, (2022): law.stanford.edu/2022/09/29/stanford-law-report-on-legal-innovation-after-reform/.

66 UT’s Office of Legal Innovation as of March 2023 has received 14 complaints of harm and reports that the ratio of harm-related complaints to services is approximately 1 complaint per 6,749 services and that entity response to harm mitigation and prevention has been adequate.

67 University of Denver: Institute for the Advancement of the American Legal System, *The Landscape of Allied Legal Professional Programs in the United States*, (2023): iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf.

68 Letter from C.J. Debra L. Stephens, Wash. Sup. Ct., to Stephen R. Crossland et al., Ltd. License Legal Technician Bd. & Wash. State Bar Ass’n (June 5, 2020), www.wsba.org/docs/default-source/licensing/lllt/1-2020-06-05-supreme-court-letter-to-steve-crossland-et-al.pdf?sfvrsn=8a0217f1_7.

SUMMARY OF INITIATIVES THAT DELIVER LEGAL SERVICES TO MODEST MEANS CLIENTS



This map is replicated from p. 34 of The North Carolina Justice for All Report: www.ncjap.org/_filesugd/8a3baf_416293fe5c5b42a9b92473cc44c78691.pdf.

reasons “hollow.” The courts and the bar also raised concerns related to its limited impact on access to justice because of the relatively small number of practicing LLLTs after 8 years of the program, that being 39 in all.⁶⁹ The low number of LLLTs may have been due to the robust and possibly onerous education and experiential requirements, which required an associate’s degree, completion of a 45 credit hour core curriculum, 3000 of substantive paralegal experience under the supervision of a lawyer, and passing the Practice Area and Professional Responsibility Exam,⁷⁰ while only permitting partial, rather than full representation of clients by LLLTs in court.

Although Washington is ending its program, 12 other states have programs that have been

implemented or are in the process of being implemented.⁷¹ For example, the Task Force heard from Arizona’s program, which licenses Legal Paraprofessionals,⁷² who will be “licensed and able to practice law, but just within a confined universe” and by virtue of their license will not be required to work under the supervision of a lawyer. Arizona has worked to remove onerous education and service requirements to increase access and innovation. Most recently, Utah,⁷³ Oregon,⁷⁴ and Colorado⁷⁵ have all implemented some version of a limited licensure program for legal paraprofessionals, with Oregon and Colorado having implemented their programs within the last 18 months.

There are several issues with which all states considering or instituting Allied Legal Professional

69 Bob Ambrogio, *Washington, State that Pioneered Licensed Legal Technicians, Cancels the Program*, (2020): www.lawnext.com/2020/06/washington-state-that-pioneered-licensed-legal-technicians-cancels-the-program.html#:~:text=%E2%80%9CBA%5Dfter%20careful%20consideration,the%20program%2C%E2%80%9D%20Stephens%20wrote.

70 Scott Wilson, *Does Washington State’s Limited License Legal Technician (LLLT) Designation Mean Paralegal Licensing is on its Way?*, (2020): www.paralegaledu.org/blog/does-washington-states-limited-license-legal-technician-lllt-designation-mean-paralegal-licensing-is-on-its-way/#:~:text=LLLTs%20don't%20necessarily%20have,clients%20as%20they%20see%20fit.

71 University of Denver: Institute for the Advancement of the American Legal System, *The Landscape of Allied Legal Professional Programs in the United States*, (2023): iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf.

72 Ethics at Law, *Far-Reaching Changes to the Practice of Law in Arizona*, Part I of III, (2020): www.ethicsatlaw.com/blog/g3sa7sczp2xi4b29fdpwgb9u-veu8bs.

73 Utah Courts, *Licensed Paralegal Practitioner*, (n.d.): legacy.utcourts.gov/legal/lpp/index.html.

74 Troy Wood, *Supreme Court of the State of Oregon: Rules for Licensing Paralegals*, (2022): www.osbar.org/_docs/resources/Exhibit1-2022.06.14LPR-FAadoptedbyPLIC.pdf.

75 Jessica Yates, *Licensed Legal Paraprofessionals Implementation Report and Plan*, (2022): www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Rule_Changes/PALS%20attachment%201.pdf.

(ALP) programs have contended.⁷⁶ Most states have come up with their own educational, practical training and testing requirements, that while unique to each state are also relatively similar in spirit. Most states allow ALPs to give legal advice, some with and some without attorney supervision and some requiring written consent prior to providing legal help. The vast majority of programs also allow ALPs to review, explain, prepare, sign, file legal documents, and communicate with the opposing party or counsel. States have also considered what other regulatory requirements should apply to ALPs, including trust accounts, malpractice insurance, continuing legal education, pro bono work, and client security funds. States, however, have taken differing approaches on representation at depositions, mediations, and settlement conferences as well as in-court representation. Another contested issue is whether ALPs should be able to have an ownership interest in law firms.

Non-Lawyer Ownership

Non-lawyer practice ownership is a business model in which a non-lawyer participates in the ownership and management of a law practice, which is prohibited by Rule 19-305.4 of Maryland Attorneys' Rule of Professional Conduct.⁷⁷ The Rule in relevant part states that (a) An attorney or law firm shall not share legal fees with a non-attorney...; (b) An attorney shall not form a partnership with a non-attorney if any of the activities of the partnership consist of the practice of law." The rule is considered essential to prevent non-lawyers from prioritizing profit over duties to clients, keeping lawyers independent in their legal advice and protecting against conflicts and the unauthorized practice of law. Interestingly, when the ABA model rule was adopted in 1983, the opposition came from law firms who argued that precluding non-lawyer investment would prevent them from fully representing clients and would limit them from

entering into ancillary practices.⁷⁸

However, now some states are tinkering with the rule to allow for innovation to help address the access to justice crisis. In August 2020, the Utah Bar created a pilot project that permitted non-lawyer-owned entities to apply to the state's Office of Legal Services Innovation for a license to offer legal services. Separately, in August 2020, the Arizona Bar eliminated its rule 5.4 entirely, creating a new licensing requirement for Alternate Business Structures ("ABS") that are partially owned by non-lawyers but that provide legal services and include at least one lawyer to serve as compliance counsel. Other states such as California, Massachusetts and Georgia have taken more modest steps to amend Rule 5.4, while Florida has explicitly opposed such efforts.

Non-lawyer ownership is still frowned upon by most states, but proponents say that non-lawyer ownership offers a possibility to increase innovation, lower costs, and expand access to civil legal aid. Non-lawyer ownership has the potential to insert different perspectives, creativity, and more investment in the delivery of legal services. This movement can lead to the development of new technologies, process, or service models that are more consumer-centric and user-friendly. It may also increase competition in the legal services market, driving down costs, while offering more options and flexibility to consumers. If non-lawyer ownership is able to leverage technology or economies of scale, it could substantially revolutionize access to justice by making quality legal information, procedures, legal obligations, and options for resolving disputes available to the public on a mass scale.

⁷⁶ University of Denver: Institute for the Advancement of the American Legal System, *The Landscape of Allied Legal Professional Programs in the United States*, (2023): iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf.

⁷⁷ Maryland Rules of Professional Conduct, rule 19-305.4: www.courts.state.md.us/attygrievance/rules.

⁷⁸ Conrad J. Jacoby, Esq., *Practice Innovations: Non-lawyer ownership of law firms – Are winds of change coming for Rule 5.4?*, (2022): www.thomson-reuters.com/en-us/posts/legal/practice-innovations-april-2022-non-lawyer-ownership/.

Regulatory Sandbox

A regulatory sandbox is a pictorial term that describes a program or framework established by a government or regulatory authority that allows businesses and startups to test innovative products, services, or business models in a controlled environment. The regulatory sandbox provides a temporary exemption from certain regulations and legal requirements that might otherwise hinder innovation, while still ensuring consumer protection and regulatory oversight.

In the legal context, a regulatory sandbox provides a space for legal startups or established legal firms to test innovative approaches to providing legal services, without running afoul of existing legal and ethical regulations, like Rule 5.4. By providing a safe space to test new approaches, legal innovators can refine their business models and identify ways to increase efficiency and access, lower costs, and improve the accessibility of legal services.

Utah's Supreme Court unanimously voted to launch the first-in-the-nation statewide regulatory sandbox for legal services in 2020, with a goal to ensure that "consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services." The Sandbox also offers invaluable data on the benefits and risks posed to consumers. At the time, the Court approved a two-year pilot, which has since been extended to 7 years, until 2027. The Court vested its Office of Legal Services Innovation⁷⁹ with the authority to implement and independently regulate the Sandbox.

Justice Deno Himonas from the Utah Supreme Court, who was one of experts who presented to the Task Force and is a champion of regulatory reform is quoted as saying:

"We cannot volunteer ourselves across the access-to-justice gap. We have spent billions of dollars trying this approach. It hasn't worked. And hammering away at the problem with the same tools is Einstein's very definition of insanity. What is needed is a market-based approach that simultaneously respects and protects consumer needs. That is the power and beauty of the supreme court's rule changes and the legal regulatory sandbox."⁸⁰

According to the March 2023 Sandbox Activity Report,⁸¹ Utah's Sandbox has received 105 applications and there are currently 50⁸² entities authorized to provide services. Among those, the Office considers 75.5% or 35 entities as "low innovation," 22.4% or 12 as "moderate innovation," and 2% or 1 as "high innovation."

In the low innovation category is an entity like:

- » Bee Bankruptcy Law, which applied to give its paralegal a 10% ownership in the business;⁸³
- » LawHQ, which is a plaintiff-side firm that applied to the Sandbox to raise capital to develop an app to both find plaintiffs and collect evidence for litigation against telephone spammers; and
- » Rocket Lawyer, a nationally known company, that sought to expand its limited legal document completion services by employing lawyers who can provide supplemental services.⁸⁴

⁷⁹ Utah Office of Legal Services Innovation: utahinnovationoffice.org/.

⁸⁰ Zachariah DeMeola, *Utah Supreme Court Makes History With Vote to Establish Regulatory Sandbox*, (2020): iaals.du.edu/blog/utah-supreme-court-makes-history-vote-establish-regulatory-sandbox.

⁸¹ Helen Lindamood, *Office of Legal Services Innovation - Activity Report: March 2023*, (2023): utahinnovationoffice.org/wp-content/uploads/2023/04/Public-Activity-Report-03-23.pdf.

⁸² The report says 49, but the numbers for the low, moderate and high innovation add up to 50.

⁸³ Logan Cornett & Zachariah DeMeola, *Data from Utah's Sandbox Shows Extraordinary Promise, Refutes Fears of Harm*, (2021): iaals.du.edu/blog/data-utahs-sandbox-shows-extraordinary-promise-refutes-fears-harm.

⁸⁴ David Freeman Engstrom, Lucy Ricca, Q&A with Sharon Driscoll, *Stanford Law Report on Legal Innovation After Reform*, (2022): law.stanford.edu/2022/09/29/stanford-law-report-on-legal-innovation-after-reform/.



Some of the moderate innovation entities include:

- » 1Law, which has 50% non-lawyer ownership and provides free and low-cost legal services to assist clients in completing court documents and also offers related legal advice using chat-bots, instant messaging, and nonlawyer staff;
- » Holy Cross Ministries, a nonprofit that will train community health workers to serve as medical debt advocates; and
- » LawGeex, which is owned by a non-lawyer, provides a software program that automates contract review and management using artificial intelligence, codifies corporate contract policies, and enables much of the routine legal decision-making process via the software tool, reducing costs and increasing efficiency.

AAA Fair Credit is the only entity categorized as high innovation. Part of the same effort as Holy Cross Ministries, AAA allows financial coaches to give limited scope legal advice about medical debt.

The Utah Office attributes the high rate of low innovation programs to the fact that 80% of the services provided thus far have been by lawyers working in a non-traditional business structure. They posit that in order for “innovation through

regulatory reform to make a real and lasting impact on the access to justice gap it is necessary for non-lawyers, artificial intelligence, and other technologies to take on a larger role in the direct provision of services.”⁸⁵

Legal Technology

There is no denying that legal technology or “legal tech” undergirds reform efforts considered to have mass appeal and impact. Of the entities that have entered the Utah Sandbox or Arizona’s ABS rubric, 61% identified a technological innovation as part of their authorization.⁸⁶

Current legal tech solutions either reduce the cost of a law practice by automating administrative or other time-consuming tasks, assist an attorney to execute law-adjacent functions at scale and in a cost-efficient way, or serve consumers in a cost-effective way in areas where legal representation is cost-prohibitive.

Broadly speaking, legal technology services can be classified in two ways: 1. business to business (B2B), which are tools that automate administrative and time-consuming tasks to help attorneys work more efficiently; and 2. business to consumer (B2C), which are tech tools that assist an attorney or non-attorney or technology to execute law-adjacent tasks quickly and at scale or directly provide legal services in a cost-effective way.

B2B Technology

By increasing operational efficiency at law firms, some believe that B2B legal technology may drive down the cost of legal representation for consumers. Many examples of B2B technology are common in today’s law firms. For example, Docusign allows for the remote signing of retainers and other legal documents, driving down the administrative burden of mailing or faxing the documents, or in-person office visits. Westlaw and LexisNexis, online legal research platforms, are widely used by the bar and have eliminated burdensome and time-consuming trips

⁸⁵ *Id.*

⁸⁶ David Freeman Engstrom, Lucy Ricca, Graham Ambrose, and Maddie Walsh, *Legal Innovation After Reform: Evidence From Regulatory Change*, (2022): <https://law.stanford.edu/wp-content/uploads/2022/09/SLS-CLP-Regulatory-Reform-REPORTExecSum-9.26.pdf>.

to a law library. The adoption of Zoom and other video conferencing platforms have transformed how we meet with both clients and colleagues. Additionally, video conferencing has allowed remote court hearings, reduced time spent traveling to and from court, potentially improving the affordability of legal services.

It is unclear how other technologies, like the meteoric emergence of Chat GPT, will impact the practice of law. A March 2023 survey by Thompson Reuters, revealed that while 82% of law firm respondents thought that AI could be applied to the practice of law, just 51% responded that it should be applied.⁸⁷ Additionally, just 5% of respondents said they are using or are in the planning process to use AI. 80% of partners and managing attorneys felt that use of AI posed a risk to their practices. State bar exams are commonly seen as both a post-law school right of passage and a measure of an attorney's competence. However, AI passed the bar in March of 2023 raising serious questions about the future impact of this technology on the legal profession.⁸⁸

Unfortunately, while B2B technology may increase operational efficiencies, it has not shown its ability to reduce the cost of legal services.⁸⁹ Bob Galves, Executive Director of the Chicago Bar Foundation, points to five factors perpetuating unaffordable legal services. The cost of law school and the financial squeeze on the middle class are both identified as contributing to the unaffordability of legal services. However, Galves points to the practice of billable hours, outdated and complex court systems, and a broken market for legal services as the largest contributors to unaffordability of legal help.

82%

Law firm respondents thought that AI could be applied to the practice of law

51%

Law firm respondents thought that AI should be applied to the practice of law

5%

Are using or in the process to use AI

80%

Feel it posed a risk to their practice

B2C Technology

If the impact of B2B technologies on the affordability are limited by other factors, could B2C technology increase the affordability of legal services and improve access to justice? Frequently, B2C technologies allow consumers to take their legal matters into their own hands and, at times, bypass the need for attorney representation.

B2C technologies are emerging rapidly and in a broad range of legal areas. Three examples of B2C technologies are discussed below.

- » People Clerk⁹⁰ is an online small claims case management platform that handles organizing, printing, filing, serving case documents and evidence packets, and reminding the user of important dates. The cost is \$149, which People Clerk returns if the user loses or fails to settle the case. A user can opt for an independent attorney

⁸⁷ Thomson Reuters Institute, ChatGPT and Generative AI within Law Firms: www.thomsonreuters.com/en-us/posts/technology/chatgpt-generative-ai-law-firms-2023/.

⁸⁸ Kevin Dollear, *GPT-4 Passes the Bar Exam*, (2023): <https://www.iit.edu/news/gpt-4-passes-bar-exam>

⁸⁹ Bill Henderson, *Legal Services and the Consumer Price Index (CPI)* (042), (2018): <https://www.legalevolution.org/2018/01/legal-services-consumer-price-index-cpi-cost-going-up-wallet-share-going-down-042/>.

⁹⁰ People Clerk: www.peopleclerk.com/

review for an additional \$149, all of which goes to the attorney. The platform provides only legal information and administrative services, not legal counsel, so there is no fiduciary responsibility. It is available in California's 58 counties and New York City.

- » LaborLess⁹¹ is an online platform that automates Labor Condition Application compliance for employers and the law firms that support them. Specifically it allows users to "post, track and manage electronic LCAs for their H-1B, H-1B1 and E-3 candidates." According to LaborLess's website, the platform complies with U.S. Department of Labor regulations, codified in 20 CFR § 655.734, which authorize electronic notice.
- » Hello Divorce⁹² is rapidly expanding in the United States. The platform has recently been launched in New York, California, Utah, Texas, Illinois, and Washington. Hello Divorce advertises that it can "handle almost every divorce without court for thousands less than hiring a lawyer." The platform advertises a range of plans including a DIY Plan (\$400), a Pro Plan (\$1500) which includes support reviewing and filing forms during the divorce process. In 2022, Hello Divorce announced it had received a \$3.25 million seed investment from the Artemis Fund,⁹³ signaling venture capital's interest in legal technology. Hello Divorce is part of the Utah Sandbox and offers the additional service to receive legal consultation and representation from an attorney under the same platform, which is not possible in other states.
- » Upsolve,⁹⁴ a 501(c)(3) nonprofit, offers a free technology platform allowing consumers to file bankruptcy on their own. The platform provides free bankruptcy information, user support, and a Facebook community of consumers who have used Upsolve. The

organization is funded through the Legal Services Corporation and philanthropic or institutional sources. Upsolve's website repeatedly states that the platform does not replace the advice of an attorney and offers a tool to connect users with an attorney for a free consultation.

- » IPGen⁹⁵ is an end-to-end patent lifecycle management platform that uses legal technology to automate aspects of the patent process which can be used even by novices to help save time and money and mitigate risk associated with the patent process. It was founded by an intellectual property attorney who worked at IBM doing patent work for a few years who was interested in using legal technology to help people who couldn't afford to hire a patent attorney navigate the nuances of the patent process with success.

As these examples show, B2C technologies are popping up fast and are bringing together the other modest means models like flat fees in a slick and easily consumable package. These technologies may not provide legal representation, but they are helping people navigate their legal problems in a more manageable and affordable way, hence succeeding in bringing law to the people.

91 LaborLess: www.laborless.io/

92 Hello Divorce | Online Divorce Without Expensive Divorce Lawyers: hellodivorce.com/

93 Hello Divorce Closes \$3.25M in Oversubscribed Seed Round to Disrupt the Broken Divorce Process (prnewswire.com).

94 Upsolve: <https://upsolve.org/>.

95 IPGen: <https://ipgen.io/>.

RECOMMENDATIONS

AFTER ALL THE INFORMATION GATHERING, THE TASK FORCE WAS INTERESTED IN IDENTIFYING SOLUTIONS THAT FIT THE FOLLOWING CRITERIA:

- » Financial viability and sustainability. The Task Force was seeking interventions that did not rely heavily on grant funding, could be self-sustainable as a business model, and financially support attorneys, while those attorneys are also doing work for the public good.
- » Scalability. The Task Force was looking for initiatives and programs that could be easily expanded or scaled.
- » Ability to have mass impact. The Task Force was seeking solutions that could have broad reach and unlock access to legal services to the masses.

To no one's surprise, there were no magic bullets.

In analyzing all the information shared with us, the Task Force proceeded over the course of several meetings from October 2022 to March 2023 to have discussions about which initiatives

and programs made sense for Maryland.

Other factors the Task Force took into account when we were considering final recommendations were the following:

- » Whether Maryland had existing infrastructure that could be used to implement and scale;
- » Whether the recommendation would be politically feasible;
- » Whether the intervention required legislative or regulatory reform;
- » Whether the need was one expressed by Maryland attorneys as being helpful in serving the modest means cohort;
- » Whether we had success with the intervention in the past;

The Task Force first proceeded by categorizing the different initiatives into different buckets, grouping initiatives that:

- » Were ready for immediate action (shovel ready);
- » Would require additional information-gathering and research;
- » Would require substantial awareness raising and education;
- » Would require regulatory or law reform; or
- » Would not be worth pursuing at this time.

There was a desire among the Task Force to take a measured approach, but also a sense of urgency to make recommendations that kept up with trends and movements afoot in other states and a desire to steer Maryland in a direction necessary to have a meaningful impact on the availability of legal services for modest means Marylanders.

There was additionally a desire to make things easier for both consumers seeking services and for attorneys wanting to provide them, but also being able to collect data and track whether interventions were having success in increasing access to justice.

There was also a realization that while the Task Force studied a lot of different models, it only touched the tip of the iceberg in terms of the depth of study it could undertake and that further study would be required for some initiatives.

Taking all of these factors into account, the Task Force agreed to not to pursue some interventions at this time because they were deemed to be

not financially viable or sustainable without grant funding and other financial or in-kind support. The affordable law firm model in DC was not deemed viable in Maryland, but there was potential with the type of model put forth by the Employment Law Center. Further, the Task Force recognized the benefits of Legal Incubators in helping young attorneys establish a law practice devoted to serving modest means clients and providing sufficient support to help the business thrive. It also recognized that Maryland already had tried this model and that the incubator did not find the financial backing it needed to keep it afloat, so the Task Force was cautious to recommend it again. However, the Task Force was heartened and cognizant of the growth in business incubators (not specific to the law) that were gaining investor support and steam throughout Maryland and thought that law firms and start-ups could take advantage of these opportunities,⁹⁶ rather than recommending that Maryland start another legal incubator program.

The Task Force developed a set of recommendations aimed at advancing access to legal services for modest means Marylanders. The recommendations are geared towards the MSBA, with support from the A2JC, and in coordination with other justice partners. MSBA is viewed by the Task Force as the most powerful, logical, and capable entity to move the needle on increasing legal services to modest means Marylanders because of its large attorney membership and its role as influencer in the legal profession.

⁹⁶ For example, the Light of Baltimore Incubator boasted a few law firms as part of its first cohort: technical.ly/startups/light-of-baltimore-incubator-first-cohort/.

THESE ARE THE RECOMMENDATIONS OF THE AFFORDABLE LAW TASK FORCE:

1

Serve as a thought leader and the coordinating entity for providing legal services to modest means clients by convening and working in partnership with all relevant justice stakeholders, the judiciary, and bar associations.

MSBA is viewed by the Task Force as the most powerful, logical and capable entity to move the needle on increasing legal services to modest means Marylanders because of its large attorney membership and its role as influencer in the legal profession. It is also deemed to be the natural convener and coordinating entity to bring together all stakeholders to move these recommendations forward.

Further, the Task Force saw that the MSBA with the A2JC could serve a critical role in being the hub of information, marketing, training, and data collection to help centralize some functions that would be helpful to all organizations and attorneys working to serve modest means Marylanders.

The MSBA with A2JC should:

- a. Create a statewide Modest Means Resource & Support Center that would serve as a storehouse of resources to enable attorneys easy access to different business models, tools, legal technologies and ready to use filings, checklists, and more to more effectively serve modest means clients.
- b. Work with justice partners to develop an online aggregator site that allows attorneys to list services they offer for a flat or discounted hourly rate, and for customers to search and get connected to those attorneys in a user-friendly way.
- c. Serve as a central hub for marketing and communications by holding convenings and developing content and communications that would effectively share information about modest means success stories and market business opportunities.
- d. Develop a Modest Means Training Institute with a curriculum that trains and mentors trainees on how to build and sustain a modest means practice in Maryland.
- e. Serve as a central data collection and evaluation center to collect, track, and analyze information related to the effectiveness of all initiatives implemented to increase legal services to modest means clients.

2

Expand existing efforts to provide legal services to modest means clients.

The Task Force categorized some of the interventions we studied as “shovel ready,” meaning that these interventions are ready for immediate action because Maryland already had an existing infrastructure in place that had the potential to expand.

1. Expand existing modest means panels.

Maryland has multiple modest means panels. Civil Justice has the largest modest means panel in the state, connecting clients to private attorneys who commit to taking cases at reduced rates. Unlike the modest means panels that the Task Force heard from, however, Civil Justice does not set out specific hourly rates for attorneys, instead leaving the fee determination up to the attorney and client.

The Task Force agreed that working to expand existing modest means panels was a good first step to serving more Marylanders in need. As such, the MSBA and A2JC should:

- a. Support Civil Justice’s efforts to get additional case and financial screeners, referral coordinators, technical assistance, and technology development that would help them expand their services.
- b. Support Civil Justice’s efforts to increase the use of the Maryland Justice Passport to make referrals to members of the private bar, law firms, bar associations, and nonprofit services providers in reduced fee, limited scope and/or flat fee cases.
- c. Assist Civil Justice to develop a menu of services that are conducive to flat rate billing after research and consultation with Maryland lawyers, and to build modest means panels in those new areas.

2. Expand use of alternate fee arrangements, legal technology, and use of allied professionals to help expand legal services to modest means clients.

The attorney survey revealed that Maryland attorneys are already employing a mix of alternative fee arrangements to deliver legal services to modest means Marylanders, but on a very limited and small scale in order to stay profitable. There were a few strong examples of how attorneys were combining the full toolbox of modest means interventions, including incorporating legal technology and allied professionals, to create the efficiencies necessary to reduce costs to build a practice serving modest means clients. This is an area where there can be growth.

Further, Maryland already has the court rules necessary to allow attorneys to do limited scope representation in Maryland. However, it is not known if limited scope representation is widely used. Attorneys expressed concerns about the ease with which judges allow attorneys to practice limited scope, but there seemed to be opportunity for the bench and the bar to collaborate to increase use of limited scope representation, to increase awareness among judges and lawyers about the benefits of limited scope representation, for the bar to highlight the stories of attorneys who practice limited scope successfully in Maryland, and for both the bench and bar to make a concerted effort to encourage more attorneys to use the existing rules and integrate limited scope representation into their practice.



As such, the MSBA with A2JC, should:

- a. Partner with the Maryland Judiciary to resolve barriers to increase the use of limited scope representation to serve modest means clients.
- b. Partner with Maryland Judiciary to increase awareness among judges and lawyers about the benefits of the use of limited scope representation.
- c. Highlight stories of attorneys who are using alternative fee arrangements, legal technology and allied professionals successfully to encourage others to do so.
- d. Develop a Modest Means Training Institute to train attorneys on how to develop a profitable modest means law practice using a mix of tools in the modest means toolkit.

3. Expand use of existing fee-shifting statutes and explore use in additional areas.

The Task Force viewed fee-shifting as a business model that was self-sustainable and one that was beneficial for both the modest means client and the attorney representing the client. However, here too, there was a need to increase awareness and training related to existing fee-shifting opportunities, in addition to working on advocating for other areas of high need where fee-shifting would be helpful to serving modest means clients.

As such, the MSBA and A2JC should partner with law firms and attorneys who utilize fee shifting to:

- a. Increase awareness and develop CLEs to train private attorneys on how to build law practices using existing fee-shifting statutes.
- b. Identify other areas of high need where fee-shifting statutes would be helpful in expanding access to services for modest means clients.

3**Conduct additional research that can help inform future progress and innovations to serve modest means clients.**

There was a realization that while the Task Force studied a lot of different models, we only touched the tip of the iceberg in terms of the depth of study we could undertake, especially in relation to some of the initiatives. There were examples of interventions that we felt were very promising, but would require additional information gathering and research to come to specified recommendations.

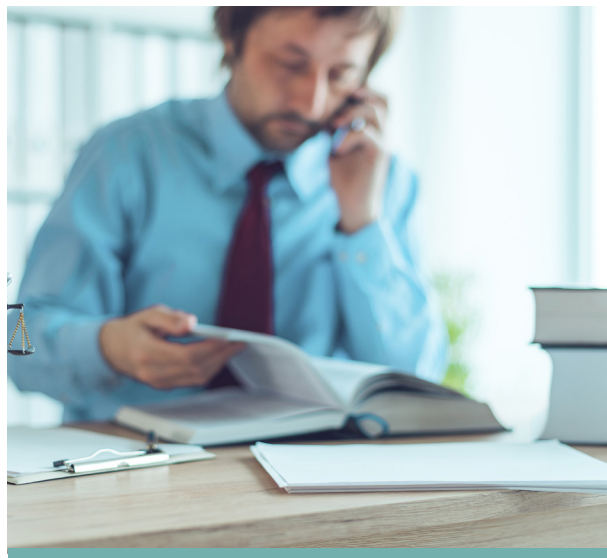
For example, the Task Force conducted a survey of Maryland attorneys, but thought it was important to get a perspective of consumer and client needs. Further, there were areas such as legal technology and generative AI that felt like they were so rapidly changing that there needed to be constant research and monitoring to be able to make appropriate policy recommendations. Also, the Task Force thought it would be useful to have an economic analysis of the types of law firm business models that were successful at serving modest means clients.

Further, the Task Force recognized the immediate potential offered through integrating allied legal professionals, especially licensed paraprofessionals, into the legal profession as a way to stratify the legal profession, similar to nurse practitioners. The introduction of lower-cost ALPs in specific areas of law has the potential to allow attorneys to work at the highest level of their degree, while allowing many other types of cases to be handled by well trained,

licensed paraprofessionals. As discussed briefly above, states interested in such an initiative must grapple with many different considerations, which requires a level of depth and specificity that the Task Force felt could be better served through a subsequent workgroup with key stakeholders and experts who could excavate the viability and effectiveness of this intervention for Maryland.

The Task Force also agreed that the legal insurance model seems the most promising in terms of mass adoption and enabling access to legal services at scale. We know well from other industries, especially the healthcare industry, that insurance has the potential to democratize access to a good or service that otherwise would be off limits if all expenditures were expected out of pocket. We were impressed and intrigued during our conversation with MetLife and encouraged by the legal insurance plan it offered as an employee benefit to large employers, such as Johns Hopkins University. For a reasonable monthly rate, their plan as was explained to us, seemed to cover a broad swath of substantive areas and a full range of legal services, including representation at trial. The Task Force also learned that the State of Maryland offered some legal help through its employee assistance program.

While we saw the most potential to increase access to legal help to the masses through an employer provided benefit, there were questions that we could not answer and felt that we needed to do further due diligence on, including understanding whether employees were satisfied with services received, the incidence of disputes about coverage under the plan, and the attorney perspective on serving on a legal insurance provider's panel. Further, we saw a need for data on how many employers in Maryland offer such plans, whether employees are aware of the existence of the employer benefit, and the percentage of uptake in these plans.





Finally, the idea of a cost-share model did not come from other states we studied, but rather from within the Task Force. It came through an examination of other industries and how there are either public subsidies or public/ private partnerships that allow for innovation or for a public good to be financed. The Task Force reviewed the lengthy list of tax credit programs in Maryland to understand how the state uses this tool to incentivize policies deemed beneficial for the public good. The Task Force did review some examples of this type of model in the legal space as well. For example, we reviewed the Rural Attorney Recruitment Program⁹⁷ in South Dakota, which pays attorneys to move to legal deserts in rural areas of the state. Additionally, Maryland's own Judicare Program, which pays attorneys a reduced rate to serve low-income individuals in cases such as a contested divorce, was seen as having potential to be reimagined for modest means clients, if a client contribution was incorporated.

While the Task Force learned some about the potential for cost share models, it felt that more information and research was needed in order to reach a solid proposal. The Task Force identified several areas that could use additional research and analysis, including:

- » Researching the panoply of tools and incentives that could fall under the cost-sharing rubric;
- » Collecting additional data on the client's financial capacity to pay;
- » Identifying alternative client financing mechanisms, such as repayment plans, short term no or low interest loans; and
- » Investigating financing mechanisms, corporation structures and work share models that could reduce barriers for solo practitioners to be able to launch affordable law practices, including B Corporations or Community Development Corporations.

Hence, while the Task Force saw potential in the cost share model, it found that more information gathering, research, and analysis were necessary to flesh out how to use such a structure to increase legal services to modest means clients.

⁹⁷ South Dakota Legal Self-Help, *Rural Attorney Recruitment Program*, (n.d.): ujslawhelp.sd.gov/rarprogram.aspx.

Taking these different areas into account, the Task Force recommends the MSBA with A2JC:

- a. Conduct a client survey capturing the needs of modest means clients.
- b. Convene a workgroup of key decision-makers, stakeholders, and experts to further study and deliberate the utility and viability of Allied Legal Professionals on meeting the legal needs of modest means Marylanders.
- c. Conduct further research on legal insurance from the consumer and attorney perspectives, publish results and use results to inform future recommendations.
- d. Conduct policy research and deliver a paper on developing a cost share model.
- e. Create a body dedicated to tracking, monitoring and reporting to MSBA and A2JC on emerging legal technologies, including generative AI, and its impacts on the legal profession, the administration of justice, and access to justice.
- f. Conduct a market study on the economics of running a high volume practice serving modest income clients.

4

Normalize discourse related to regulatory reform of the legal profession.

Despite having the potential to be transformative, the Task Force surmised that the issues of non-lawyer ownership and the regulatory sandbox would require substantial education and discourse to get the Maryland community familiar with the different aspects of the issue. Proponents of regulatory reform cite it as the only way to increase innovation, while opponents seek to protect the legal profession from perceived encroachment. Even though Maryland is far behind other states in even having discussions about regulatory reform, The Task Force thought it ill-advised to ignore these interventions, as they were already here. With the accelerated pace of technological change and non-lawyer organizations and professionals moving to meet the demand for legal services to modest means clients in other states, the Task Force thought it was necessary for the MSBA and A2JC to foster and normalize dialogue around these topics so that Maryland can craft its own path forward with stakeholder involvement and input.

The Task Force, thus, encourages the MSBA and A2JC to work together to:

- a. Be a thought leader, convener, and communicator to raise awareness about regulatory reforms of the legal profession through thought pieces, articles, policy papers, speakers, podcasts, webinars, convenings, and more.
- b. Keep abreast of national trends and initiatives around the country to inform continued discussion and action in Maryland.

5**Partner with modest means nonprofits to establish a pilot project in either family law or estate planning.**

The Task Force thought it prudent to test out a combination of modest means panels, flat fee structures, and limited scope representation through a pilot project and recommended that MSBA and A2JC partner with modest means nonprofits to establish the pilot. The pilot project would allow for data collection and analysis related to marketing, training, uptake of modest means interventions, and more. The Task Force identified two areas that were ripe for a pilot project: family mediation and estate planning.

6**Form a group that will work to implement recommendations of this Task Force and to conduct additional research that can help inform future progress and innovations to serve modest means Marylanders.**

Since the recommendations are aimed at the MSBA with A2JC, a group should be created that will help implement the recommendations of this report.

APPENDIX I

AFFORDABLE LAW TASK FORCE

Co-Chairs

Sarah Coffey Bowes, Esq.

Executive Director, Civil Justice, Inc.

Reena Shah, Esq.

Executive Director, Maryland Access to Justice Commission

Members

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Pamela Ortiz, Esq.

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Santoni, Vocci & Ortega, LLC

Syma Siddiqui, Esq.

Associate General Counsel,
Johns Hopkins University

Shuaa Tajammul, Esq.

APPENDIX II

This is a list of experts that the Task Force learned from and engaged in dialogue with to explore models of legal services to modest means clients.

December 16, 2021	<u>Seattle School of Law Incubator Program</u> <u>Limited License Legal Technician Board (Wa.)</u> <u>Washington State Bar Association Moderate Means Program</u>	Washington	Diana Singleton, <i>Chief Equity & Justice Officer, Washington State Bar Association</i>
	<u>Arizona Foundation for Legal Services & Education's Modest Means Project</u>	Arizona	Chris Groninger, <i>Chief Strategy Officer, Arizona Bar Foundation</i>
January 27, 2022	<u>Shore Legal Access (formerly Mid-Shore Pro Bono)</u>	Maryland	Meredith Lathbury Girard, <i>Executive Director</i> *

February 24, 2022	<u>Charleston Legal Access</u>	South Carolina	Lana Kleiman, <i>Executive Director</i>
March 24, 2022	<u>DC Affordable Law Firm</u>	District of Columbia	Gabrielle Mulnick Majewski, <i>Executive Director</i>
April 28, 2022	<u>Jaskot Law</u>	Maryland	Jared Jaskot, <i>Principal *</i>
	<u>Johns Hopkins University</u>	Maryland	Syma Ahmad Siddiqui, <i>Associate General Counsel *</i>
May 27, 2022	<u>The Office of Legal Services Innovation, Utah Supreme Court</u>	Utah	Sue Crismon, <i>Executive Director</i>
June 23, 2022	<u>Santoni, Vocci & Ortega, LLC</u>	Maryland	Jane Santoni, <i>Principal *</i>
July 27, 2022	<u>The Office of Legal Services Innovation, Utah Supreme Court</u>	Utah	Constandinos Himonas, <i>Justice of the Utah Supreme Court (Former)</i> Lucy Ricca, <i>Board Member and Director of Policy and Programs for the Deborah L. Rhode Center on the Legal Profession, Stanford Law School</i>
August 18, 2022	<u>The Chicago Bar Foundation</u>	Illinois	Jessica Bednarz, <i>Associate Director of Innovation (Former)</i> Bob Graves, <i>Executive Director</i>
September 1, 2022	<u>People Clerk</u>	California	Camilla Lopez, <i>Co-Founder</i>

	<u>LaborLess</u>	New York	Roman Zelichenko, <i>Co-Founder & CEO</i>
September 22, 2022	<u>Legal Studies Institute, Anne Arundel Community College</u>	Maryland	Erin Gable, <i>Director</i> *

The Task Force also conducted interviews with organizations outside of Task Force meetings.

On February 10, 2022, some members of the Task Force had an extensive discussion with a MetLife Insurance representative who was working with Johns Hopkins University to offer their legal insurance plan.¹

Further on February 15, 2023, a Task Force member visited the Light of Baltimore Incubator of Baker Donelson², which is a partnership between the national law firm of Baker Donelson, the Johns Hopkins University Office of Development Small Business Cohort, Bloomberg Philanthropies and Goldman Sachs 10,000 Small Businesses whereby they offer space, mentorship, legal and marketing support of 26 small businesses, including some law firms.³

¹ John Hopkins University: Human Resources, Legal Insurance,(n.d.): hr.jhu.edu/benefits-worklife/health-life/other-insurance-benefits/legal-insurance/.

² Baker Donelson, The Light of Baltimore Incubator at Baker Donelson, (n.d.): www.bakerdonelson.com/the-light-of-baltimore-incubator-at-baker-donelson.

³ John Hopkins University: Human Resources, Legal Insurance, (n.d.): hr.jhu.edu/benefits-worklife/health-life/other-insurance-benefits/legal-insurance/.

