

ACCESS TO JUSTICE CHAMPIONS

THE WSBA LOW BONO SECTION'S NEWSLETTER



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POSITIVES AND PITFALLS OF LEGAL INNOVATION

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USE ADOBE ACROBAT PRO TO YOUR ADVANTAGE IN LITIGATION

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A return to (quarterly) in-person meetings is coming soon!

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**Low Bono
Section**

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POSITIVES AND PITFALLS OF LEGAL INNOVATION

BY JEFF HAMILTON, MBA, JD AND JENNIFER ORTEGA, LLLT

In this article, Jeff Hamilton and I write about our opinions on legal innovation in remote work, video conferencing, and legal insurance.

Remote Work and Video Conferencing

The concept of remote work has been around for years. Jack Niles, co-founder and president of JALA and former NASA engineer, coined the term “telecommuting” in 1973.¹ IBM first forayed into telecommuting by allowing five employees to work from home as an experiment. That number grew to 2000 by 1983.²

I Won!



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Without going into mind-numbing detail on statistics and dates for who said what and when, suffice it to say remote work has (generally) expanded over the past 49 years. What really kicked things into high gear was the COVID-19 pandemic. Suddenly it seemed everybody was WFH-ing (Working From Home). Of course, that’s completely inaccurate, as essential workers everywhere were still on the job,

taking care of business—and more importantly, our health.

The Washington Post published an article on Jan. 15, 2022,³ stating:

The case for the functionality of remote work has largely been settled: The wheels of productivity continued to hum on Wall Street and in Silicon Valley and other corporate strongholds even as their sprawling offices lay vacant. Employees stayed home and learned how to live at work. And throughout 2021, profits rolled in.

Narrowing the focus to the legal profession, the swift adoption of remote work was astonishing—albeit driven by necessity.

The benefits to litigants, judicial staff, and legal professionals were quickly apparent. No more need to drive in rush hour traffic, shuffle through security, and then wait for hours in a crowded courtroom for a hearing that often lasted less than 30 minutes. The use of video platforms, such as Zoom and Teams, allowed people to be practically anywhere and still have the opportunity to be heard in a court of law.

Courts adopted a range of software products and invested in hardware, like cameras and microphones, to enable remote work and remote hearings. These investments are almost certainly going to be integrated into future workflows.

(For an interesting read, check out the Court Recovery Task Force Technology Committee’s report “Guiding Principles for Identifying, Developing, Implementing and Using Court Technology,” published in April 2021 on the court’s website.⁴)



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Judicial officers and staff alike learned to log in remotely, and to rely less on paper files. Paper still has not become obsolete, but maybe—just maybe—the “paperless office” is closer to becoming reality. Think of all the trees to be saved!

Legal practitioners suddenly realized they too, could work from home, dramatically reducing or outright eliminating the need for office space. Cost savings are an added bonus.

Prepaid Legal Services, aka Legal Insurance

According to NOLO (a publisher of do-it-yourself legal products) “a ‘prepaid legal service plan’ is a type of insurance plan that a number of different companies offer and market through employers, labor

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unions, credit unions, department stores, credit card companies, and even door to door. The theory is that legal services, kind of like nuts and berries, are cheaper when bought in bulk. A relatively low yearly fee, typically a couple of hundred dollars, purports to cover many lawyerly tasks.”⁵

It has historically been challenging for the public to find an attorney knowledgeable in a specific area of law who will give some basic information and assistance for a low price. With legal insurance, a plan subscriber is (generally) quickly and easily connected to an attorney who has agreed to provide legal services under that insurance plan in that specific area of law.

Subscribers may be far more inclined to ask questions about their legal rights and responsibilities when it is clear the cost to do so will be low. In essence, the hurdle for the legal services consumer to obtain legal information and assistance is lowered with prepaid legal services.

Attorneys may benefit from a lowered cost to obtain clients. While the fees received for the legal work may be lower than market rate, the expense to bring in the client could be dramatically lower than with traditional marketing. Depending on the plan, attorneys may be able to limit the type of legal work they are willing to perform, and choose whether or not to even accept a subscriber as a client.

Through the utilization of legal innovations such as remote work, video conferencing, and legal

insurance, there are new opportunities for attorneys to build and grow streamlined practices while increasing revenues. Add in greater access to justice for the public, and it's a win-win scenario.



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PITFALLS

Innovation in the law often leads to positive outcomes from an access to justice perspective. My colleague Jennifer Ortega outlines those above. Here, I outline some of the pitfalls I believe—based on my own experiences and tales from colleagues—come with certain legal innovations. While every legal professional may not agree with my opinions, at the least I offer some food for thought.

In 2022, remote work became a mandatory working structure for many people around the world. While recently forced upon so many workers, remote working has been an option since the advent of the home computer. Concerns unique to remote work include:

Less opportunity to interact with coworkers. Colleagues may still be seen over video calls, but interactions in a remote

environment require a set intention. Valuable opportunities for face-to-face interactions in break rooms, hallways and/or meeting rooms are lost. A recent study showed that workers who live alone may find that the lack of face-to-face interactions when working from home full time can contribute to problems with depression.⁶

An inability to leave work behind. Leaving a physical office means the work is literally out of sight (and hopefully out of mind). Working from home often means the office is just down the hall from the kitchen, living room, or bedroom. This can lead to a reduced ability to separate work from our everyday life, and increased stress when work is omnipresent.

Security and confidentiality are at risk. If there are children, a



"Inveraray Jail - The Courtroom" by Graham and Emma Maxwell is licensed under CC BY-NC-ND 2.0.

partner, family members, or anyone else living in or visiting the home, there is an increased risk of being overheard or that confidential information may be seen by others. Much more attention must be paid to ensuring conversations cannot be overheard, locking the computer or laptop, and securely storing away client files. In fact, it may be nearly impossible to have truly private conversations.

Most, if not all, legal professionals have become familiar with video conferencing over the past couple of years. While it may feel like standard practice at this point, I want to highlight a few concerns:

Reduced ability to review documents not previously provided. A client can no longer simply show up to a meeting with documents in hand and ask the legal professional to review and discuss. Naturally, clients can be invited to upload or email information, but this relies on the client actually being able to understand and use the technology to do so.

Clients may lack technology access or savvy. Some people do not have access to a computer or even the internet. Lower income clients may not have access to a scanner, printer, or computer. Internet dependency may result in a reduced ability for clients to engage with legal professionals who have developed a legal practice reliant on the use of technology.

Legal insurance is a developing market that raises new concerns for legal professionals. From my experience working within the legal insurance industry, three key concerns are:

Excessive litigation. Clients may be more willing to litigate issues when they are not paying the legal professional's market rate. A good deterrent to excessive litigation of low-value claims may be increasing attorney fees. This may help dissuade a client from a vigorous litigation strategy that eats up much of the attorney's time.

Revenue versus effort may affect client relationships. Legal insurance providers tend to pay the lowest fee possible for attorney services. This reduced payment structure encourages attorneys to be as efficient as possible, which may result in reduced time dedicated to building and maintaining client relationships. This may have a variety of negative impacts on how clients feel about the services they receive.

Decreased access to justice. A key access to justice concern with legal insurance is that it may result in a greater wealth disparity in access to legal services. Generally, individuals with higher income obtain legal insurance through their employer, while lower income individuals may not have any legal insurance employment benefit. As more attorneys provide services via legal insurance plans, the availability of lower-cost attorneys may continue to shrink.

POSITIVES AND PITFALLS OF LEGAL INNOVATION - continued

As with many things in life, change brings about numerous effects. Legal innovations can bring immensely positive changes, and also carry real risks that must be taken into consideration and mitigated accordingly. Legal practitioners must be ever vigilant in their quest to provide great service to clients in an efficient, effective, and ethical manner.

¹ <https://www.jala.com/jnmbio.php>.

² <https://www.sorryonmute.com/history-remote-work-industries/#:~:text=While%20modern%2Dday%20remote%20work,option%20to%20work%20from%20home.>

³ <https://www.washingtonpost.com/business/2022/01/15/remote-work-micron/>.

⁴ https://www.courts.wa.gov/programs_orgs/pos_bja/Technology%20Committee%202021%2004%20Final%20Guiding%20Principles.pdf.

⁵ <https://www.nolo.com/legal-encyclopedia/question-are-prepaid-legal-service-plans-28184.html>.

⁶ Xiao, Yijing et al. "Impacts of Working From Home During COVID-19 Pandemic on Physical and Mental Well-Being of Office Workstation Users." *Journal of Occupational and Environmental Medicine* vol. 63,3 (2021): 181-190. doi:10.1097/JOM.0000000000002097.



Jeff Hamilton's law practice focuses on small businesses, contract drafting, and some commercial litigation. He is a member of the Low Bono Section's Executive Committee and an at-large member of the Business Law Section.

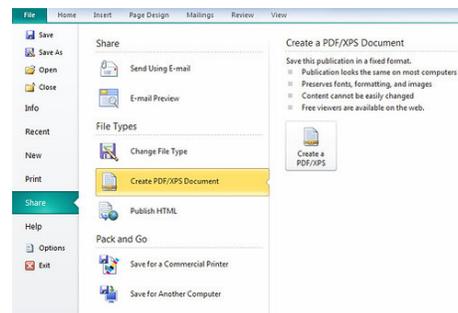


Jennifer Ortega is an owner and partner at Axisline Law, PLLC. Her firm focuses on providing excellent family law services at affordable rates.

USE ADOBE ACROBAT PRO TO YOUR ADVANTAGE IN LITIGATION BY LESLI ASHLEY, LLLT

Adobe Acrobat is a document-imaging program widely used in the legal profession to create, manipulate, print, and manage Portable Document Format (PDF) files. The Professional version of the software includes particularly helpful tools to mark up a document or to rearrange or organize pages within the file.

In this article I discuss four tools I have found vital for the preparation of documents for use in litigation: 1) Combine Document; 2) Organize Pages; 3) Edit PDF; and 4) Redact. These tools make it much easier to work with documents containing



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dozens or even hundreds of pages, and to be able to find a specific page within the file.

Combine Files: This tool makes it quick and easy to combine multiple PDFs into a single document. Each

PDF file added shows as a separate document on the screen, which can be dragged and dropped into the correct position. This is a great way to add exhibit pages to a document, or to rearrange information (such as monthly statements) into a specific order. The original source documents remain as separate files, so if the combined file is inadvertently lost, or if it becomes too mixed up to set straight, it is no problem to start over from the original PDF files.

Organize Pages: This is a particularly powerful tool. Once files are put together into a single

USE ADOBE ACROBAT PRO TO YOUR ADVANTAGE IN LITIGATION - continued

document, the Organize Pages tool allows individual pages, or even groups of pages, to be moved within the document. Pages may also be inserted, deleted, or extracted as separate files. This feature comes in handy when a particular page or set of pages needs to be saved separately as a new PDF.

And for times when a PDF file is too large to send or upload, the Split function may be used to divide the PDF into multiple documents, or split by number of pages or number of megabytes, i.e., 5 MB. A PDF may also be split by top level bookmarks—see 3 below.

Edit PDF: Once this tool is selected, the text on the page becomes editable. This is an easy way to fix typos without having to recreate the PDF from the source document (usually Word).

TIP: Beware of making changes to signed documents or destroying the credibility of the document, such as if the document is a copy of an original letter included as an exhibit.

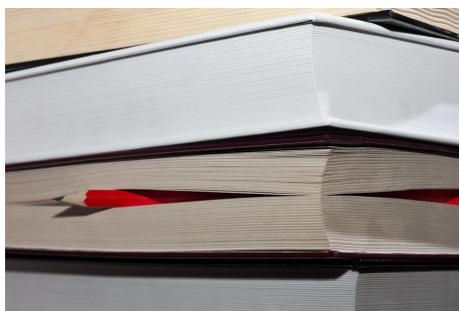
The three main functions of the Edit PDF tool frequently used in preparing litigation documents are Add Text, Bates Numbering, and Add Bookmark.

1. Add Text allows for words or type to be added anywhere on the document. For example, the word SEALED may be added to the first page behind the Sealed Financial Source Documents coversheet. This function is handy whenever there is

a need to include verbiage anywhere on a page. The font, type size, line spacing, alignment and even color may be changed to match the document's original type, or different type may be used to make the added text stand out.

2. Bates Numbering is probably the function most widely used by legal practitioners. Up to 15 digits may be included, and the numbers may be placed anywhere on the page. There is even an option to include a prefix or suffix, i.e., Plaintiff 10458. Oftentimes in documents prepared for litigation, the case and party information is included in the footer when adding Bates numbering.

TIP: When working with very long documents, or multiple documents with Bates numbering, keep a separate list of the number series and document details for easy



"Red pencil sticking out between pages of a book" by Horia Varlan is licensed under CC BY 2.0.

reference.

3. Bookmarks work much like a physical bookmark; clicking on a named bookmark jumps to the bookmarked page. Bookmarks can be used to jump to a specific exhibit, or to a certain page in a transcript. They can also be created

automatically by utilizing the metadata of a document if metadata (such as key words) is included in the PDF file.

Redact Text: Redaction has never been easier than with the Redact Text tool! Redactions may be made in black, white, or any color, and it is as simple as highlighting text or a block of text with the cursor. The text to be redacted is first shown with a box around it so it is easy to see if too much or too little has been selected.

TIP: Do not apply redactions to the original file. Save the file with a new name (adding "redact" to the file name is helpful) before clicking on Apply for the redactions.

Preparing documents for use in litigation using the Adobe Acrobat tools described above may be just the advantage needed to win the case. And certainly, using these tools will help the legal professional be organized and able to quickly and accurately refer to specific information, even in very long documents.



Lesli Ashley is a LLLT and registered paralegal with Empower Family Law LLLT. She has worked in civil litigation for over 25 years, is an ACEDS certified e-discovery specialist, and currently volunteers each week with Spokane County VLP. Lesli also serves the WSBA by volunteering with the Practice of Law Board, Court Rules Committee, and Low Bono Section.

EDITOR'S NOTE

BY JENNIFER ORTEGA, EDITOR, LLLT

Our new normal seems to be upon us. It is a return to in-person meetings and the resumption of social gatherings, but it is also the ongoing uncertainty of what will happen next. It is a heightened awareness that “normal” can be quickly swept away by factors far beyond our control.

For me, the unexpected death of a fairly young family member was a striking reminder that life is to be savored, enjoyed, and lived to its fullest. My goal—and hope—for the new normal is to balance work responsibilities with spending quality time with the people who matter most to me.

I plan to work a bit less, take on fewer tasks, and spend more time in my garden. I will see friends and family more, and worry less about getting more new “stuff.” I hope you will be able to do the same in this strange new normal (especially after you read Marya’s article below!).



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WHAT IS INFLATION ANYWAY?

BY MARYA NOYES, MBA, LLLT

So... how is everyone doing? Have you looked at your 401K or stock portfolio lately? Do me a favor—don't. It may give you heartburn. Lately things are a bit... shaky? Confused? Erratic? Last week I heard one analyst refer to the market as violent. Goodness, that doesn't sound good at all.

By now, I am sure you have heard people throw around words like inflation, recession, and other economic terms that sound mildly alarming. News headlines claim inflation is now the highest it has been in 14 billion years or some other such thing. Gas prices are higher and food costs more. The question is, should you raise your rates as well? Should you panic?

Honestly, this is when those of us with any economic training tend to develop a bit of a headache. Suddenly, it seems as if everyone on the internet—who just stopped being an expert on epidemiology and mRNA vaccines—magically evolved into an expert on economics and monetary policy.

While I can't possibly hope to clear up any of the aforementioned topics, I will attempt to de-mystify some of the economic terms you may have come across lately, and put forth a few possible reactions to this uncertain landscape. I also recommend reading my prior article on surviving market disruption published in the Snohomish County Bar Association's monthly

newsletter. It may (or may not) help answer the “what to do” question. If my recent articles have been a bit too subtle, please allow me to shorthand it for you: **Buckle up.** The economic turbulence is not over, nor is it likely to be for a bit.

Inflation – what is it?

Why should you care? First of all, let's talk about the definition of the word inflation. Inflation is actually a rather simple concept that tends to get muddled by the media. In economics, we define inflation as too many dollars chasing around too few goods. For example, if money is easy to come by and the supply chain of goods and services gets gummed up for reasons like

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war, the middle east reducing oil output, a zero-Covid-policy in China (the manufacturing capital of the world), or not enough housing, then people tend to increase what they are willing to pay for the goods and services that remain. Lots of demand plus not enough supply equals price goes up or inflation. Easy, right?¹

If this definition is correct and all these factors are simultaneously at play, inflation is likely to increase all over the globe, not just in the United States of America. Expectedly, as fate would have it, most of the world has recently experienced drastic inflation. For example, in February 2022 annual inflation increased in the U.K. to 6.2 percent. In the United States, our consumer price index increased 7.9 percent. Frankly, we should all be grateful we don't live in Turkey; their prices increased 69.97 percent during this same time period.²

As one might imagine, inflation is a real problem for consumers. Suddenly, it costs more to fill up the gas tank and buy basic necessities. To add insult to injury, typically

wages do not increase at the same rate of inflation. Consequently, most people end up with less money every month to put toward discretionary spending. As one might imagine, inflation has a disproportionately negative effect on those on a fixed income or in a lower income bracket.

Because it is a needed service, the demand curve for legal services tends to be inelastic (or relatively insensitive to price increases.) As inflationary pressures increase, consumers are likely to reduce some if not all discretionary spending. Consequently, it is reasonable to assume, when possible, the average consumer will likely make the most cost-effective choice if an alternative to a full service option is available. Please note this possibility if considering the effect on demand when contemplating a rate increase.

Fixes to inflation – not so fast
What's the answer to inflation? Simply put, either increase the amount of supply of goods and services, or decrease the amount of money available to purchase

them. If you watch the majority of the central banks around the world, they are currently attempting to reduce the amount of currency (money) available to purchase goods and services. They do this through many different avenues, the most famous of which is increasing the overnight lending rate. The what?

The overnight lending rate. The interest rate banks charge each other for overnight loans to meet their reserve requirements. In the United States, we call this the Federal Funds rate. This May the Federal Reserve Board (the Fed) increased this rate by 0.5 percent; the largest rate hike since 2000.³ The Fed also widely broadcasted it is going to continue to increase this rate several more times in the coming months. Is that a big deal?

Depends on who you ask. Since the recession in 2008, the Fed, like most other central banks, has engaged in expansive economic policy by keeping the Fed funds rate really low. (Some, like myself, would argue it was kept too low for too long.) Furthermore, on March 3, 2020, at the beginning of the pandemic, to counter a possible economic slowdown the Fed held an emergency meeting and dropped the Fed funds rate by one whole percent.⁴

Why does increasing the Fed funds rate decrease inflation? Well, the Fed funds rate has ripple effects across our entire economy, from annual percentage rates on



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WHAT IS INFLATION ANYWAY? - continued

credit cards, home equity loans, and auto loans to adjustable-rate mortgages. If money costs more to borrow, then people borrow less of it. Raising the Fed funds rate effectively reduces the supply of cash available to purchase goods and services, which equates to less demand. So, less demand plus same supply equals price goes down. (It's like tapping the brakes on our economy.) Therefore, when you see shocking headlines like, "Federal Reserve warns of worsening market liquidity." Don't get alarmed. It is doing that on purpose.

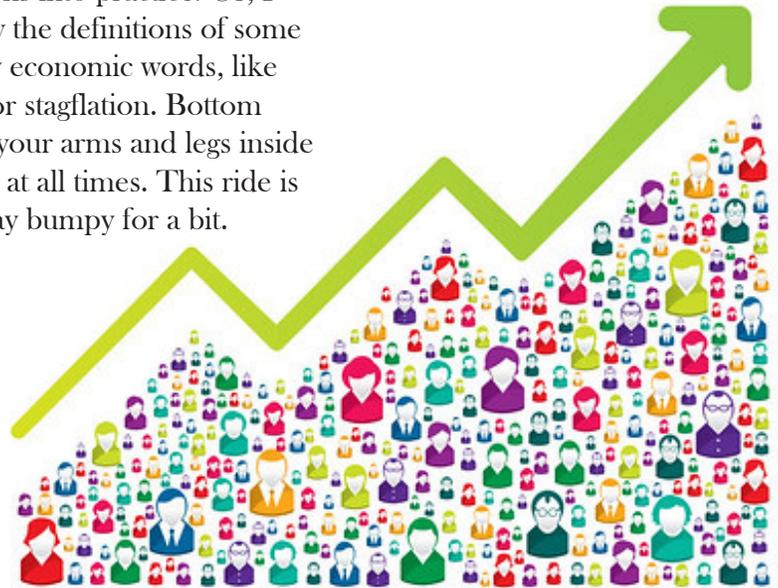
Right now the U.S. consumer is experiencing a tremendous amount of inflationary pressure, and things do not appear to be changing anytime soon. The supply chain has not recovered. China is still a mess. There is a war in Ukraine. Russia has threatened to stop all oil production, and other oil producing countries are not filling the gap. We don't have enough housing.

Consequently, many dollars plus too few goods equals inflation. Further, the U.S. consumer is running out of savings built up during the pandemic. Sooner or later, all these macroeconomic factors will show up on the bottom line of law firms as consumers pull back on any spending they deem discretionary.

As I have frequently argued in past articles, I posit the way out of this dilemma is to practice price discrimination, or to develop a flexible pricing business model

which can adapt to changing consumer needs and capacity to pay for legal services.

Next month, I will delve further into possible options of putting these options into practice. Or, I may review the definitions of some other scary economic words, like recession or stagflation. Bottom line, keep your arms and legs inside the vehicle at all times. This ride is likely to stay bumpy for a bit.



¹ Author's Note: This article contains sweeping generalizations for the sake of simplicity and ease of translation from economics into English. The entirety of the situation is generally more complex and nuanced than the facts contained in this article. If it weren't, I would have received a call from the Federal Reserve to share my enlightened insights with the entire country. Further, I have not referenced many of the general concepts in this article because they are relatively basic and can be found in most Economics 101 textbooks.

² Inflation Rate. Trading Economics - County List. <https://tradingeconomics.com/country-list/inflationrate>.

³ Foster, S. Fed's interest rate history: A look at the fed funds rate from the 1980s to the present. Bankrate.com. May 4, 2022. <https://www.bankrate.com/banking/federalreserve/history-of-federal-funds-rate/#2021>.

⁴ Boesler, M. "Fed Warns of Worsening Market Liquidity in Stability Report." Bloomberg, US. Edition. May 9, 2022. <https://www.bloomberg.com/news/articles/2022-05-09/fed-warns-of-worsening-financial-liquidity-instabilityreport#:~:text=The%20Federal%20Reserve%20warned%20of,semi%2Dannual%20report%20published%20Monday>.



Marya Noyes is a LLLT practicing family law at Genesis Law Firm in Everett. She was licensed as a LLLT in 2017, and earned her MBA at Seattle University in 2019. Marya regularly writes articles on economic analysis and market opportunities presented by addressing the justice gap.



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UPCOMING EVENTS

Executive Committee Monthly Meeting

Section members are encouraged to attend any Executive Committee meeting!
Zoom-link on or dial in and learn more about what's happening with our Section.

July 13, 2022

Regular meeting: 4:00 - 5:30 p.m., virtual happy hour: 5:30 - 6:00 p.m.

Coming soon - quarterly in-person meetings and socials!

We are working on the meeting schedule, and expect to announce quarterly in-person meetings and social hours soon on the list serve.

Join our list serve by going to groups.io, searching for LowBonoWA, then following the instructions to request access to the list serve. Hope to see you soon!

The Low Bono Section is committed to justice for all and invites participation by everyone involved in serving moderate-income individuals.

Join our section!
Visit <https://wsba.org/legal-community/sections/low-bono-section>.