

IV

DEVELOPMENT AND COORDINATION OF DISASTER RESOURCES

Development and coordination of additional resources to cope with the immediate and long-term needs of disaster victims is crucial to an adequate response to a catastrophic disaster by legal assistance programs for low-income people. Depending on the needs engendered by a particular disaster and the form of help available, legal assistance offices may increase their ability to provide services to disaster victims in two ways: through pro bono attorneys and via additional program staff.

A. Pro Bono Resources

In Florida, there are two institutionalized sources of pro bono attorneys following a disaster: The Florida Bar YLD program which is mobilized through FEMA, and the existing statewide network of pro bono attorneys coordinated through Florida Legal Services and the Florida Pro Bono Coordinators Association, with assistance from the Florida Bar and the Florida Bar Foundation.

1. Young Lawyers Division

As discussed in Part VII, federal disaster assistance is provided under the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. § 5121 *et seq.* Legal assistance is one of the services available to disaster victims under the Stafford Act and administered by the Federal Emergency Management Agency

(FEMA). 42 U.S.C. § 5182; 44 CFR § 206.164. Since 1980, FEMA has contracted with the Young Lawyers' Division of the ABA to provide these legal services, which are restricted to non-fee generating cases¹ and are provided to low-income people free of charge. *Id.* The services provided are limited to assisting disaster victims in securing benefits under the Stafford Act and in resolving claims arising out of the disaster. 44 C.F.R. § 206.164(e). The services provided usually include the following:

- Assistance with insurance claims (life, medical, property, etc.);
- Counseling on landlord-tenant and other housing problems;
- Assistance with home repair contracts;
- Assisting in consumer protection matters, remedies, and procedures;
- Counseling on mortgage foreclosure problems;
- Replacement of wills and other important legal documents destroyed in a major disaster;
- Drafting of powers of attorney;
- Estate administration;
- Preparation of guardianships and conservatorships; and
- Referring individuals to local or state agencies that might be of further assistance (e.g., consumer affairs).

Under its agreement with FEMA, ABA YLD mobilizes young lawyers when a disaster is declared and FEMA requests assistance. In Florida, the ABA YLD works cooperatively with The Florida Bar and its Young Lawyers Division to provide these

¹ Fee-generating cases are defined in federal disaster regulations as ones “which would not ordinarily be rejected by local lawyers as a result of lack of potential remunerative value.” 44 C.F.R. § 206.164(b)

services. While the program is under the auspices of the YLD, volunteers may be drawn from all segments of the Bar across all age and experience levels.

After a disaster, the YLD establishes a toll-free number that is answered by a Florida Bar staff person. FEMA distributes the number in disaster areas and the YLD advertises the free service in the media. This occurred during the 2004 hurricanes. The YLD estimates that approximately 11,000 calls were handled. Callers initially speak with a staff person at the Florida Bar. In 2004, about half of the callers got the informational assistance they needed from Bar staff. The other half needed to talk to an attorney and were directed to one of the volunteers recruited by the YLD. About half of those (around 2,500) needed further assistance. Many disaster victims begin their quest for legal assistance with the YLD hotline. In order to provide as much service as possible to as many people as possible, coordination between the YLD and other statewide pro bono resources is necessary and is taking place.

2. Florida's Pro Bono Delivery System

In 1993, the Florida Supreme Court established Florida's statewide pro bono plan. Committees in each judicial circuit were created to report on pro bono efforts across the state and a Standing Committee on Pro Bono Legal Services was formed to assist the circuit committees and report annually on the implementation of the plan.

Several groups including the Florida Pro Bono Coordinators Association (FPBCA), Florida Legal Services (FLS), the Florida Bar and the Florida Bar Foundation have, to some extent, been involved in the development and initiation of statewide pro bono projects. Development and support are coordinated through FLS. FLS also provides staffing for the Standing Committee on Pro Bono. Additionally, the FPBCA, a

statewide organization, includes pro bono coordinators from around the state. The FPBCA meets quarterly to share information on best practices, new developments and pro bono projects. The Florida Project Directors Association recently approved the creation of a new standing committee, its Pro Bono Committee, thus establishing a process for making ongoing reports and recommendations on statewide pro bono efforts of the organizations and groups described above.

3. Bringing the YLD and Pro Bono Systems Together After a Disaster

The Florida Pro Bono Coordinators Association in collaboration with the Florida PDA's Pro Bono Committee, has developed a plan for coordinating efforts with the YLD following a disaster. The plan seeks to address the issue of continued service to those whom the YLD is unable to assist. To that end, a regional contact list² has been provided to the YLD which contains the names and numbers of Pro Bono Coordinators in each of the seven regions identified in Florida's State Plan.³ Because disasters might limit availability of a contact person in a particular region, some regions have assembled disaster "teams" and additional contacts are identified for YLD to contact in the alternative. The FPBCA will update the regional contact list each year in June and provide a copy to the YLD. Regional contacts and pro bono coordinators will be provided with training materials (including the sections in this manual that address substantive legal topics) to share with pro bono attorneys and in-house staff.

Additionally, a sample press release⁴ to assist in recruitment of volunteer attorneys will

² Regional Contact List is attached.

³ Florida's Regional Legal Services Delivery Map is attached.

⁴ Sample press release is attached.

be distributed to all programs and disaster legal assistance will be included as an option on annual recruitment materials.

The procedure for obtaining additional help for a disaster victim starts with a request for assistance communicated by a YLD representative to the local regional contact from the region where the disaster victim is seeking help. Assuming the YLD representative is able to reach the regional contact, at that point, the contact will review the request for assistance and make a determination as to whether: (a) they are able to provide assistance, or (b) another referral needs to be made. If the YLD representative is unable to reach the regional contact (or a member of the regional team) or, if for any reason assistance has still not been provided, then the FPBCA Executive Committee may be contacted for further assistance. The FPBCA is committed to providing assistance to disaster victims to the fullest extent possible recognizing however, that pro bono participation levels and the existence of successful pro bono projects vary widely within the state. It is also likely that quick response by legal assistance staff in regions that are hard-hit may be challenging and contacts could become inundated. Cooperation and support from programs that are unaffected by the disaster will be necessary to achieve positive results.

4. Recommendations

To further the availability of pro bono legal assistance to disaster victims and collaboration among the providers of such assistance it is recommended that:

1. Each judicial circuit pro bono committee have a spring or early summer meeting with local pro bono providers to review the pro bono disaster preparedness plans and to ensure effective recruitment of volunteers for short and long term legal

assistance has been/will be undertaken. Further, the committee should ensure there has been communication among the providers, the YLD and the local bar associations in the circuit.

2. The YLD should annually advise the Pro Bono Coordinators Association of its disaster leadership and plans for volunteer recruitment. The YLD and the Pro Bono Coordinators Association should seek to coordinate and design recruitment of volunteers to maximize the availability of volunteer lawyers to respond to both short term and long term legal assistance needs of disaster victims.

3. Staffed legal assistance providers should recognize and include pro bono coordinators as an integral part of disaster preparedness and evaluate and provide the necessary resources to provide an effective pro bono assistance response to a disaster.

B. Potential Funding Resources for Responding to a Disaster

No one can anticipate all possible sources of potential funding for legal aid programs in the event of a disaster. Each disaster produces its own unique cast of organizations, agencies, businesses and individuals who seek to respond to needs generated by the disaster. The following will provide some basic information about some known potential resources, based upon previous experiences.

1. General Legal Aid/Legal Services Funders

The Florida Bar Foundation has established an annually recurring set-aside of funds that will be available to legal aid programs whose service area experiences a Presidentially-declared disaster. The initial level of funds available, both to assist

programs with internal damage and to help provide disaster legal assistance to clients, is \$250,000. At the writing of this section, the Foundation is considering a significant increase in the annual level of disaster funding. The Foundation has established a streamlined the process for consideration of disaster-related applications for assistance. Legal assistance disaster grants are renewable subject to available funding. Legal aid providers in Florida can contact the Foundation for specific information or visit its website, www.flabarfndn.org.

The Foundation has also provided laptop loans to programs to support the provision of legal assistance to disaster victims. Further, it offered scholarships to attend disaster planning training. The Foundation welcomes suggestions and ideas as to how it may further assist programs dealing with disasters.

The Legal Services Corporation has historically maintained a modest reserve to assist its grantees in times of disaster. In 2004 it made several grants to programs in Florida from its reserve. LSC has adopted regulations governing its process for accepting disaster applications from its grantees. That process and those regulations can be accessed through the LSC website, www.lsc.gov.

2. Funding for Legal Assistance to Victims

- **Florida Department of Elder Affairs** - After the 2004 hurricanes, the Florida Department of Elder Affairs received special Title III funding to serve victims of the hurricanes. Several legal aid/legal services programs received special grants through their Area Agency on Aging to provide hurricane relief legal assistance to seniors. Unfortunately, such special funding was not made available in response to the 2005 hurricanes, so the availability of this special funding will have to be monitored after each disaster.
- **Florida Hurricane Relief Fund** - This fund is administered by the Volunteer Florida Foundation and is used primarily to fund community based efforts at

providing disaster relief services, both short and long term. Funding for legal assistance to victims could most easily be obtained as a part of a collaboration with the community based effort. More information on this fund can be found on their web site, www.flahurricanefund.org.

- **United Way, Community Foundations and other local funding** - In many communities, the local United Way, community foundation or other local funding sources will provide special funding opportunities to serve victims of a hurricane. Again, the likelihood of gaining this kind of funding is enhanced if the application is in collaboration with local recovery efforts like the local long term recovery organizations that have been formed in some 33 of Florida's counties..

3. Funding for Physical Plant of Legal Aid/Legal Services Programs:

- **Florida Hurricane Relief Fund** - Please see above for information about this fund and for contact information. This fund is also available to programs to help pay for damages caused by a hurricane to buildings and equipment owned by the program. Community Legal Services of Mid-Florida was successful in obtaining funding from this source to repair damage to its Osceola County office.
- **FEMA Public Assistance** - These funds are available from FEMA primarily to fund recovery of government infrastructure after a disaster. Typically these funds are available in more counties than eligibility for individual assistance. These funds are also available to certain nonprofit organizations for property and equipment repair or replacement. The general eligibility requirement in the law is "other private nonprofit facilities which provide essential services of a governmental nature." There is no example to provide of a legal aid/legal services program seeking or obtaining funding from this source.

More information can be obtained from the FEMA website,
<http://www.fema.gov/rrr/pa/>.

- **Small Business Administration Disaster Loans** - Any business that is located in a declared disaster area and has incurred damage during the disaster may apply for a loan to help repair or replace damaged property to its pre-disaster condition. The SBA makes physical disaster loans of up to \$1.5 million to qualified businesses. If the SBA determines that the business (or nonprofit organization) is unable to obtain credit elsewhere (considering the cash flow and assets of the business, its principals and affiliates), the law sets a maximum interest rate of 4 percent per year. The maximum maturity for such business disaster loans is 30 years. However, the actual maturity is based on the ability to repay the loan. More information can be obtained from the SBA website, http://www.sba.gov/disaster_recov/loaninfo/dloanassit.html.

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