

PRO BONO ASSISTANCE DEPLOYMENT AND THE KATRINA RULE



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PRO BONO ASSISTANCE DEPLOYMENT

INTRODUCTION

In case of a disaster, having a plan of action is key. That plan should include action items applicable to both small- and large-scale disasters as well as action items unique to various situations. For example, a concentrated wildfire that affects only a small rural town will require a different response from a hurricane that tears through multiple states. However, in both of these situations it is important to have a reliable network of local and out-of-state attorneys and organizations that can mobilize when and as needed. In addition, the network should include legal support volunteers, including paralegals and translators.

Once these relationships are made, the next steps are focusing on how to recruit attorneys from these partner organizations, how to train them once they arrive, and how to retain their interest in volunteering throughout the duration of the disaster recovery period.



PREPARATION

Legal organizations should have a pro bono recruitment and training plan well before a disaster takes place. While every disaster is different and may present its own specific response, a general plan of action from which to begin will save valuable planning time when the disaster occurs. The plan should generally include a specific processes to recruit both local, statewide, and out-of-state volunteers throughout the disaster cycle; the process for which volunteers are able to sign up for specific volunteer opportunities; the type of events or opportunities that a volunteer may be able to assist depending on their location; the method to share training and resources materials; and the type of training that will be need to be conducted. The plan should include specifics for how the organization will engage volunteers, such as types of assistance and type of matters, keeping in consideration in-person and remote opportunities for local volunteers and remote opportunities for statewide and out-of-state volunteers.

Once a disaster occurs, the plan must be shaped to the specific disaster. There should be an assessment of the community affected by the disaster, including the type of damage, the extent of the damage, the location of the damage and the residents in those areas, and any displacement of the survivors. Taking the community assessment into consideration, the specific legal services and how those services can be provided and by whom should be identified, and the plan should be adjusted accordingly.

When developing the plan, the phases of the disaster cycle should be taken into consideration. The type of client engagement, legal matters types, and volunteer engagement changes over the course of the disaster recovery. For volunteer engagement, there is often a surge of interest immediately following a disaster, but as the recovery continues and sense of normalcy returns, volunteer engagement will also decline.

RECRUITMENT

HOW LEGAL AID ORGANIZATIONS CAN RECRUIT VOLUNTEERS

Generally, each legal aid organization should maintain a “network list” of representatives or pro bono coordinators from local and non-local legal aid organizations, firms, bar associations, law schools, and referral services, as well as contacts with out-of-state legal organizations. This list will be serve as the basis for recruitment before, immediately after a disaster strikes, and during the long-term recovery. Before a disaster, each legal aid organization should strive to create and maintain an up-to-date list of volunteer attorneys from a wide range of practice areas who have already indicated a willingness to help.



Legal aid organizations can begin making the initial list of volunteers by reaching out to their network list, conducting outreach events including training CLEs, and attending legal association networking events.

HOW FIRMS CAN HELP RECRUIT PRO BONO ATTORNEYS

Firms can utilize similar tactics to recruit attorneys to participate in pro bono work. Firms can sponsor a CLE, whether remote or in person, for both its own attorneys as well as solo practitioners and attorneys from small to mid-size firms. Firms can also offer access of their vast resources to solo practitioners to assist with pro bono matters. These resources can include access to software, research systems, and attorney support. For example, firms can offer solo practitioners access to their online resource library to support their disaster pro bono case. A firm can also offer access to virtual on-demand trainings and resources, which can help recruit a range of attorneys from non-local and out-of-state attorneys that may otherwise may not access to resources needed to assist in a pro bono matters.

TRAINING

TOPICS TO COVER AT TRAININGS

While willingness to volunteer will be strong, many of the volunteer attorneys will not have the specific expertise to handle the niche and varied issues that can arise in the wake of a disaster. Volunteer attorneys can be trained on federal law, local state law, or tribal law that will help them be productive and effective in the specific pro bono role for which they have volunteered. For example, if pro bono attorneys are volunteering at a legal advice clinic at a disaster recovery center within a few days of a disaster, the volunteers should be given a broad training covering a range of topics involving legal rights from FEMA, landlord/tenant matters, access to healthcare, disaster unemployment, and access to survivor resources, such as food stamps. Another example, if out-of-state pro bono attorneys are volunteering remotely and depending on how they are allowed to practice in the state (see Katrina Rule, below), the volunteer should be trained to provide legal advice on federal law matters, including FEMA, federal relief, and IRS tax matters. Another example, if volunteers are being recruited to provide representation beyond legal advice, the training should be on the nuts and bolts, including templates, for representing the client in that specific matter type.

Generally, volunteer attorneys can expect to be trained in areas such as the following: bankruptcy, insurance, tax, FEMA applications and appeals, disaster benefits, disability rights, housing, landlord/tenant, home equity fraud, debt collection, credit reporting, home repair, liens, loans, healthcare,



family law, fraudulent charities, power of attorney, document replacement, employment, disability insurance, immigration, and probate.

TRAINING METHODS

Training can be conducted in a variety of methods. They can be held in person or remotely, through a live webinar, online training platform, or pre-recorded videos. Interactive trainings will be more engaging for attendees. For live event, either in-person or virtual, this can discussions or Q&A sessions among the group. For recorded events, can require interaction with the platform before proceeding to the next section of the trainings or filling out an accompanying worksheet or packet while watching the video. . It is a best practice to record all trainings and made available for volunteers to watch or complete on-demand at their convenience. Training materials should be made available digitally, and a hard-copy of all written materials should be available for any in-person volunteer activities.

For volunteers providing services beyond legal advice, legal aid organizations should have a list of mentor attorneys available to assist with answering questions. Mentor attorneys can be both staff and experienced pro bono attorneys, who either practice in the area or have previously provided extensive services in disaster legal aid. Legal aid organizations should have a system in place to coordinate between volunteer and mentor attorneys.

WHEN TO CONDUCT TRAININGS

As with recruitment, trainings should be pre-prepared before the disaster, and then customized around the specific disaster, when in the recovery the training is occurring, and where the volunteers are located. Trainings should occur cyclically and at least once annually. In areas that are seasonal hotspots for disasters, the initial training should be at least once prior to the start of the disaster season. This will serve as an initial recruitment event and will prepare a first round of attorneys ready for immediate deployment after a disaster hits. Providing training cyclically also provides opportunities for those with expertise in their fields to share updates and best practices from previous disaster seasons.

After the disaster hits, legal aid organizations should be prepared to conduct timely training for both first-time volunteers and those who are returning or previously-trained volunteers. In the immediate aftermath of a disaster when volunteers are needed at shelters or disaster recovery centers or a legal advice clinic, it may be difficult to organize a large-scale training. In these instances, legal aid organizations should be prepared to conduct a formal training one hour prior to a volunteer shift or to



provide one-on-one instruction or support for smaller groups of volunteers. As the recovery continues, legal aid organizations should conduct trainings based on when certain types of matters tend to arise following a disaster. For example, several months after a disaster, there will be an increase in foreclosure or bankruptcy matters due to the economic impact of the disaster.

HOW TO ENGAGE PRO BONO ATTORNEYS

How to engage pro bono attorneys will depend on the specific type of disaster, when in the recovery the engagement is occurring, and where the volunteers are located.

SHORT TERM AFTERMATH OF A DISASTER

In the early stages after a disaster, volunteers will most likely be providing legal information and answering preliminary legal questions in two general manners: in-person where survivors are seeking services, including shelters and disaster recovery centers, or via remotely, including telephone or virtual. This phase can greatly benefit from non-local or out-of-state volunteer attorneys assisting remotely with fielding questions while local attorneys are available to assist on the ground. When planning for providing services, it is important to take into consideration whether the survivor will have access to how the services are being provided. Following a disaster, a survivor may not have a phone available or does not have the available data to conduct a virtual meeting.

For matters requiring services beyond legal advice, cases can be placed with local, non-local, and out-of-state attorneys. It is vital legal aid organizations can coordinate projects with firms

HOW TO ENGAGE PRO BONO ATTORNEYS IN THE LONG TERM AFTERMATH OF A DISASTER

One of the most difficult problems faced by legal aid organizations is maintaining volunteer engagement throughout the disaster recovery process, particularly as a sense of normalcy returns to the area. Recovery can take several years, and on-going legal issues can continue or present themselves for the first time months and sometimes years after the disaster. Few understand how long the recovery process truly is. As mentioned above, financial related legal matters such as foreclosures and bankruptcies tend to arise several months after the disaster. In some instances, it may take several months or years to resolve the issue. For example, two years after Hurricane Harvey, low-income households continued to remain in disrepair because the residents do not qualify for assistance due to a cloudy title for their generational family home.



Some methods that have been useful in maintaining the interests of volunteers are providing ongoing clinics, ensuring constant communication via email and the use of listservs, periodically share client impact stories and on-going need, and celebrating the hard work of volunteers.

HOSTING LONG TERM CLINICS

Clinics staffed by volunteer attorneys can be held periodically for as long as the recovery period lasts. Each clinic can be tailored to the specific issues that are arising at each new phase of recovery. This keeps the information new and engaging for the volunteers. Clinics should be held at locations frequented by the target audience of the clinic. For example, the legal aid organization can host a clinic near a veteran administrative office or a local community center serving disaster survivors.

Virtual clinics are also an option, which allow for non-local and out-of-state attorneys to continue to volunteer as well as local volunteers who have limited availability but are able to commit to an hour for a virtual meeting.

MAINTAINING RELATIONSHIPS

Maintaining an active listserv and hosting virtual talks regarding disaster-related topics with a focus on the on-going specific legal need at that specific time can assist in keeping the momentum going. Legal aid organizations should also share client stories and the impact of pro bono work on their matters, as well as highlight clients with current needs and how the disaster continues to impact their lives due to the lingering legal issue. Finally, while volunteers do not sign up to receive recognition, it is important for moral to recognize the hard work of volunteers by celebrating new deployments after trainings and the achievements of all involved. When volunteers feel appreciated, they are more likely to volunteer again in the future.

THE KATRINA RULE

The ABA Model Court Rule of Legal Services Following Determination of Major Disaster, generally known as the Katrina Rule, provides out-of-state attorneys with the ability to provide pro bono legal services in the affected jurisdiction. The out-of-state attorneys must be under the supervision of civil legal aid or pro bono programs in order to provide these services during a declared emergency. The Katrina Rule also allows attorneys whose practices have been hindered by such an emergency to temporarily practice in an unaffected jurisdiction. The Katrina Rule only goes into effect if there is a declared disaster.



The Katrina Rule was passed in 2007 by the ABA House of Delegates in response to the tragedy following Hurricane Katrina. While many out-of-state attorneys wanted to offer their services, the Louisiana Supreme Court noted that it would be an unauthorized practice of law to do so. Since 2007, the Katrina Rule has been slow to be adopted nationally. Only 18 states have adopted the Katrina Rule. Several states have provisions allowing judicial emergency orders, some have institutionalized programs, and many have either declined to adopt the Katrina Rule or have not considered adopting it at all.

Below is a list of states that have adopted the Katrina Rule with links to the rule or judicial order. The states that have not adopted the Katrina Rule but have some type of out-of-state lawyer rule can be found underneath followed by a list of states that have neither.

STATES THAT HAVE ADOPTED THE KATRINA RULE

ARIZONA

Link: [Arizona Supreme Court Rule 40](#).
Citation: ARIZ. SUP. CT. R. 40.

COLORADO

Link: [Colorado Rule of Civil Procedure 224](#).
Citation: COLO. R. CIV. P. 224.

DELAWARE

Link: [Delaware Supreme Court Rule 58](#).
Citation: DEL. SUP. CT. R. 58.

GEORGIA

Link: [Supreme Court of Georgia Rules Part XXI: Rule 121](#).
Citation: GA. SUP. CT. R. 121 [?]

IOWA

Link: [Iowa Supreme Court Rule 31.17 and 31.25](#).
Citation: IOWA SUP. CT. R. 31.17 & 31.25.

ILLINOIS

Link: [Illinois Supreme Court Rule 718](#).
Citation: ILL. SUP. CT. R. 718

LOUISIANA

Link: [Rules of the Supreme Court of Louisiana Part O, Rule XLI](#).
Citation: LA. SUP. CT. R. XLI.

MINNESOTA

Link: [Minnesota Supreme Court Rule](#).



Title: Minnesota Supreme Court Rule on the Provision of Legal Services Following the Determination of a Major Disaster.

MISSOURI

Link: [Missouri Supreme Court Rule 4-6.6.](#)

Citation: MO. SUP. CT. R. 4-6.6.

NORTH DAKOTA

Link: [North Dakota Admission to Practice Rule 3.2.](#)

Citation: N.D. ADMISS. PRAC. R. 3.2.

NEW HAMPSHIRE

Link: [New Hampshire Supreme Court Rule 60.](#)

Citation: N.H. SUP. CT. R. 60.

NEW JERSEY

Link: [Rule 1:21-10 of the Rules Governing the Courts of the State of New Jersey.](#)

Citation: N.J. Ct. R. 1:21-10

NEW YORK

Link: [New York Court of Appeals Rule 520.11\(d\).](#)

Citation: 22 NYCRR § 520.11(d).

SOUTH CAROLINA

Link: [Supreme Court of South Carolina Rule 426.](#)

Citation: S.C. SUP. CT. R. 426.

TENNESSEE

Link: [Tennessee Supreme Court Rule 47.](#)

Citation: TENN. SUP. CT. R. 47.

VIRGINIA

Link: [Virginia Supreme Court Rule 10.](#)

Citation: VA. SUP. CT. R. 10.

WASHINGTON

Link: [Washington Admission to Practice Rule 27.](#)

Citation: WASH. ADMISS. PRAC. R. 27.

WISCONSIN

Link: [Wisconsin Supreme Court Rule 23.03.](#)

Citation: WIS. SUP. CT. R. 23.03.



STATES THAT HAVE NOT ADOPTED THE KATRINA RULE BUT HAVE AUTHORIZED SIMILAR PROCEDURES

CONNECTICUT

Connecticut Superior Court Rules Section 1-9B allows the Chief Justice to call a meeting of the Rules Committee in certain emergencies. The Committee may adopt, revise and suspend rules deemed necessary in light of the emergency. Public Act 10-43 also gives the Chief Justice emergency powers.

Citations: CONN. SUPER. CT. R. SEC. 1-9B.

IDAHO

Idaho's Emeritus Attorney Limited License Program allows lawyers who are or have been actively licensed to practice law in the United States within the five years prior to application to provide pro bono services under the supervision of an approved nonprofit legal service organization.

Citation: IDAHO B. COMM. R. 228(b).

MISSISSIPPI

Mississippi Rules of Appellate Procedure Rule 46 allows out-of-state lawyers to provide pro bono services whether or not there is a declared disaster.

Citation: MISS. R. APP. P. 46.

NORTH CAROLINA

Provided administrative order authorizing out-of-state lawyers to provide pro bono services to indigent residents affected by Hurricane Florence.

Citation: 27 N.D. Admin. Code 1D Rule 0905.

OREGON

Oregon Revised Statute 9.241 allows out-of-state lawyers to appear if associated with an active member of the Oregon State Bar.

Citation: OR. REV. STAT. § 9.241.

TEXAS

Provided emergency order authorizing modification and suspension of court procedures in proceedings affected by Hurricane Harvey as well as a temporary order allowing out-of-state lawyers to practice in Texas.

UTAH

Utah Supreme Court Rules of Professional Practice 14-803 allows out-of-state lawyers to provide pro bono services under the supervision of a sponsoring entity registered with the Utah State Bar.

Citation: UTAH SUP. CT. R. PROF. PRAC. 14-803.



STATES THAT HAVE REJECTED OR HAVE NOT YET CONSIDERED THE KATRINA RULE

ALASKA¹
ALABAMA
ARKANSAS
CALIFORNIA
FLORIDA²
GUAM
HAWAII
INDIANA³
KANSAS
KENTUCKY
MASSACHUSETTS
MARYLAND⁴
MAINE
MICHIGAN
MONTANA
NEBRASKA
NEW MEXICO
NEVADA
OHIO
OKLAHOMA
PENNSYLVANIA
PUERTO RICO⁵
SOUTH DAKOTA
US VIRGIN ISLANDS
VERMONT
WASHINGTON D.C.
WEST VIRGINIA
WYOMING

¹ Alaska Has in the past authorized out-of-state lawyers to assist in pro bono efforts after a disaster. ALASKA SUP. CT. SPEC. ORDER 7081 <https://public.courts.alaska.gov/web/sco/docs/sco7081.pdf>.

² Florida explicitly declined to adopt the Katrina Rule. *In re* Amendments to the Rules Regulating the Florida Bar (Biannual Report), No. SC10-1967 (Fla. 2012), <https://www.floridasupremecourt.org/content/download/421524/4555533/sc10-1967.pdf>.

³ Indiana Supreme Court Rule 6.2 permits a special pro bono license. IND. SUP. CT. R. 6.2, https://www.in.gov/judiciary/rules/ad_dis/index.html#_Toc532979329.

⁴ Maryland allows attorneys licensed in another state to provide pro bono work under certain requirements. <https://mdcourts.gov/sites/default/files/import/accesstojustice/pdfs/probonoattorneysrulefactsheet010216.pdf>.

⁵ Puerto Rico declined to adopt the Katrina Rule in part because of the Island's different legal system. Carolina Bolado & Natalie Rodriguez, 'Now Is The Real Crisis': *Puerto Ricans Struggle For Disaster Aid*, LAW360 (Feb. 10, 2019, 8:39 PM), <https://www.law360.com/articles/1123340>.

