

Introduction: The Need for Pro Bono Disaster Legal Assistance

Disasters are increasingly becoming part of our everyday lives. Recent events, such as the COVID-19 global pandemic, the Texas Winter Storm of 2021, annual wildfires on the West Coast of the United States, and an increasing number of hurricanes remind us that it is not only critical to be resilient, but it's even more important to be prepared to respond. Responding to and recovering from these disasters takes more than the traditional first responders—police officers, firefighters, paramedics, and other emergency personnel. Second responders—workers who assist first responders to prepare and manage the return of critical services and cleaning up sites after a disaster—are essential to disaster recovery. However, after the debris is cleaned up and utility services are restored, who are the responders that help survivors get their personal and business matters back on track, such as homeownership, insurance claims, rental housing rights, family and custody matters, and dealing with intersecting issues, such as immigration? *Lawyers* serve as critical third responders for disaster survivors. Because very few lawyers practice disaster law on a full-time basis, pro bono attorneys who volunteer their time to conduct intake, provide advice, refer survivors to resources, and adjudicate claims are lifesavers for many disaster survivors.

Pro bono attorneys come from a variety of practice areas, and they also might come from many different jurisdictions. Practicing disaster law can be a very niche practice that requires training and support. The ABA YLD's DLS program has served alongside FEMA, LSC, local LSC-granted legal services, and other not-for-profit organizations to recruit and train pro bono attorneys to respond to disasters nationwide. This publication brings together some of our nation's most knowledgeable experts on disaster law to provide a critical resource for pro bono attorneys to understand these very niche areas of practice. It shares essential knowledge of the various ways constituents and stakeholders, such as law schools, state bar associations, legal services, and other not-for-profit organizations can collaborate in a concerted effort in the aftermath of a disaster. By no means is this resource exhaustive, and it does not cover all the resources and information that can be provided by experts and scholars in this field. But I hope that it will serve as a training resource to help us better understand, prepare for, and respond to the needs of disaster survivors in our communities.

The chapters in this book were chosen and structured to holistically provide the reader with a well-rounded understanding of what to expect, not only from the standpoint of the legal issues involved and how to advocate for clients, but also how to understand and respond to the intersection of client issues and the

effect that practicing in a disaster setting often has on an advocate's emotional or physical well-being.

I. How This Book Can Be Your Resource to Disaster Legal Response

This book is structured in two parts. It provides a foundation of what disaster legal response might look like and how an attorney might experience it, and it shares legal-specific knowledge that is important to have when you advocate for clients. Part I: The Role of the Legal Community and Volunteer Attorney gives readers an understanding of the ABA YLD DLS program and how it works with FEMA and collaborates with other local legal organizations to provide pro bono disaster legal services.

Law schools can be critical members of this response. Law professors and law students can assist with the growing number of cases taken on by civil legal service attorneys by volunteering their time and energy to help respond to the community's legal needs. Many who provide legal aid do not have experience practicing in disaster-related settings or situations, and they might have emotional and physical responses as secondary or vicarious trauma. With time and exposure, they might experience compassion fatigue. Part I provides a good foundation for understanding what disaster legal response might look like, who is involved, and how the practitioner can be prepared.

Part II: The Disaster Survivor and the Areas of Legal Need shifts understanding from what the attorney can expect from their perspective to what the disaster survivor may need and how their intersectional identities may be important to consider as advocates holistically analyze and respond to legal needs. Legal areas addressed in Part II are Individual Assistance programs provided by FEMA, understanding how to navigate and appeal FEMA claims, issues of homeownership, navigating flood claims, and advocating for tenant rights in a disaster.

II. Part I: The Role of the Legal Community and Volunteer Attorney

In chapter 1, "Disaster Legal Services," Andrew VanSingel describes the structure of the ABA DLS program and how, in recent decades, it has been on the forefront of the organization of pro bono disaster legal services. Any attorney who volunteers in disaster response likely will volunteer in a program that has some connection to the ABA DLS program. This chapter provides a clear understanding of how pro bono disaster legal services are established, how partners come to collaborate, and where pro bono attorneys come into play.

In chapter 2, "Skills Pedagogy and Legal Ethics in a Law School Disaster Recovery Clinic," Professor Haber and Professor Louis help give other legal educators and disaster response attorneys a glimpse into how legal education can be a component of disaster legal assistance. Given the structure and nature of pro

bono disaster legal assistance, law schools can help alleviate client need while providing experiential training for students. Professors Haber and Louis discuss the various aspects of creating and maintaining a disaster legal clinic that serves as a resource for other legal educators and law schools to learn from their experience.

In chapter 3, “Understanding Compassion Fatigue Resiliency while Providing Disaster Legal Services,” Professor Martinez Hoy and Professor Nguyen explain how attorneys volunteering or working in disaster-related situations or issues might experience vicarious trauma and compassion fatigue. They introduce readers to the concept and framework of compassion fatigue through terminology and application of the framework in disaster legal assistance. To help build resiliency, they also provide an understanding of symptoms for attorneys to consider as they become aware of this experience. This interactive chapter seeks to engage readers and lead them in exploring their own motivations for becoming a lawyer. It also seeks to help them understand how external pressures can have an effect on personal and professional well-being. Although this chapter is focused on disaster response, attorneys can easily translate this into their everyday practice and begin implementing these strategies in their organization and workplace.

III. Part II: The Disaster Survivor and Areas of Legal Need

In chapter 4, “Moving Beyond Empowering the ‘Vulnerable’ to Deliver Value and Outcomes in Disaster Legal Services to the Marginalized,” Professor Sanders provides a foundational understanding of how various intersectional marginalized identities can play a role in disaster relief advocacy. It is important for advocates to understand how having marginalized identities is a critical factor in the level of relief and assistance people can receive. For example, for those learning the English language or who are fluent in another language, relief services might not be as accessible, and advocates will need to utilize additional resources and strategies to ensure equitable access. As the American population becomes ever more diverse, disaster advocates should know what to be aware of and what to look for when zealously and competently representing their clients.

In chapter 5, “Federal Disaster Individual Assistance Programs,” former FEMA Associate Chief Counsel Mary Ellen Martinet and Jotham Allen, current Principal Deputy Associate Chief Counsel of FEMA, lay out the principles of FEMA’s Individual Assistance programs and what lawyers and survivors need to know to apply and receive benefits as a result of a disaster. Mary Ellen was a critical member of the pro bono disaster legal services program, having served as a presenter, panelist, author, and consultant for many years to the ABA DLS program and others. In this chapter, Mary Ellen and Jotham provide a comprehensive overview of Individual Assistance programs and the requirements for eligibility and applications. This chapter serves as a foundation both for lawyers and survivors to understand the programs FEMA offers.

Chapter 6, “Advocate’s Guide to Navigating FEMA Individual and Households Program,” serves as a counterpart to chapter 5. In this chapter, Tracy Odvody Figueroa and Linda Anderson Stanley share with advocates and survivors a background and understanding of how to navigate the FEMA application and appeals process for both the Individual Assistance and Households programs. Many times, FEMA claims are denied for a multitude of reasons. Figueroa and Anderson Stanley provide resources and examples for pro bono attorneys to understand how to navigate the FEMA process and initiate appeals.

Given that disasters often affect housing situations for survivors, the remaining chapters focus on issues related to housing. In chapter 7, “Disaster Relief and Issues of Title, Homeownership, and Heir Properties,” authors Kathryn Fanning, Kathy Grunewald, and Leslie Powell-Boudreaux discuss various homeownership requirements of FEMA in its Households program. Given that FEMA requires applicants to have appropriate documentation of homeownership, the authors give readers an understanding of various situations and circumstances in which such documentation may not be available and when additional legal assistance is required to seek federal assistance.

In chapter 8, “Navigating a Flood Insurance Claim Post-Disaster,” authors Melissa Luckman and David Charles provide a comprehensive understanding of how to file a flood insurance claim and what to expect after filing. Their chapter includes examples and discussion of common issues and solutions that lawyers and survivors both need to know to succeed in a disaster flood insurance claim. Damage to property caused by flooding can result in a variety of consequences that are broader than standing water. Pro bono attorneys and survivors who have issues of water damage should be sure to examine this chapter to ensure that survivors receive the maximum benefit from damage to their property.

Finally, in chapter 9, “Disaster Relief, Tenant Rights, and Rental Housing,” legal services attorney Lesley Albritton provides a critical understanding of tenant rights, focusing on disaster scenarios. Many landlords may not respond swiftly to tenant needs as they await payment on their own insurance claims. This chapter is critical to understanding what rights tenants can assert and how to assert them most effectively. Often, tenants do not understand the rights they have, and they can be misinformed or misled by their landlords. Although this is the final chapter, it may be one of the most important. Home rental might be more prevalent than homeownership in densely populated areas, and the impact of damage to or loss of a home during a disaster is critical and urgent.

This book serves as a resource to disaster attorneys, pro bono lawyers, advocates, and survivors alike during times of disaster. These chapters present some of the most important aspects of disaster law that are in the “need to know” category both for lawyers and survivors. It is my hope, and that of the contributors, that these chapters help the legal profession, associated advocates, and anticipated survivors become more prepared in these areas so that when a disaster occurs, prepared third responders can step in to help survivors and their communities recover and be ever more resilient.