

**LEGAL SERVICES CORPORATION
KATRINA CONFERENCE CALL NOTES
JUNE 20, 2006**

Announcements

Terry Coble

- FL Bar foundation held its second annual training on disaster assistance in Tampa for legal aid providers throughout the state. The training was a day and a half. YLD disaster representatives were there and overall 63 people attended.
- The FL bar foundation is asking all Florida legal aid programs to submit a disaster plan and, as part of this, they are to name one person or two people, depending on program size, to serve as disaster contacts. One person will be responsible for administrative issues and one for substantive issues. These people get refresher training each year.

Linda Seely

- The board of governors meeting took place in Tennessee and they are going to try and sit down next week and pick some days for dual track training. One track will focus on the delivery of legal assistance to people affected by disasters (FEMA insurance, etc.), and the other will focus on preparing your office for a disaster.
- The board did adopt the Tennessee plan that calls for a partnership between the state bar and the state legal aid support group (TALS) in terms of how they will activate in the time of a disaster. Each legal aid program is supposed to check with their local disaster management system.
- Mike Greco was in town last week and came to their disaster legal assistance clinic.

Insurance

Tony Barash

- Received some information from participants on what the needs were that could be addressed by the pro bono insurance adjusters.
- Made contact with the National Association of Public Adjusters and will be sending them the information received from programs.

Recoupment

Terry Coble *Please see attached memo from Terry on Recoupment*****

- Had significant experience with this after Hurricane Andrew in 1992.
- **Overview:** Post-Hurricane Andrew there was a large number of cases affecting low income clients. Individual representation came after the initial phase of dealing with the disaster. The period starts about 12-18 months after the disaster and lasts until several years post-disaster.
- Have had a client who came in 4 ½ years after Hurricane Andrew.

- **The major reasons for Recoupment:** FEMA single household rule and the FEMA duplication of benefits rule (if people have gotten 2 rental assistance checks and/or 1 rental check and a mobile home, etc.)
- The recoupment process puts low-income people at a disadvantage because the system requires them to pay now and go to court later.
- The notice tells people that they are to pay back the entire amount owed or to start a payment plan within 30 days.
- The client has a right to appeal within 60 days.
- The client can obtain their file but this does not stop the appeals process.
- If a client has not paid or entered an appeal they are charged 6% interest at 90 day mark.
- Administrative offset means that FEMA can take their tax returns.
- Social security benefits and other federal benefit programs (over \$9,000 a year) can be taken as can wages.
- **Substantive defenses for the single household:** show that the household split up after the disaster and that the amount given to the other person was not given to your client.
- **Duplication of assistance:** if the recoupment was based on your client's receipt of a rental check and a mobile home check, then you can argue that the victim should not be penalized for receiving a check for rental assistance. You can also show it was used for rental assistance. If the reason for the recoupment was for the receipt of two rental assistance checks, then you need to prove that the person needed the extended assistance and that they spent it on rent.
- FEMA regulations allow for an ending to the recoupment if the claim was legally without merit, if they will be unable to collect, if the claim could not be substantiated by evidence (best one to take), or if it going through the recoupment process would be more expensive than the amount of the money owed.
- FEMA will pressure people on the phone to get into a payment plan despite the fact that they may have valid defenses. It is important to warn people not to agree to repayment until they have spoken to an attorney.
- **Willie Abrams:** Have you seen recoupment situations that resulted when someone received benefits as a result of this disaster, but had also received benefits in a previous disaster?
 - **Terry:** the regulations say that FEMA will not give that person benefits if they owe money from a previous disaster.
- **John Idleman:** Did people have trouble understanding the letters?
 - **Terry:** Yes, people had a hard time understanding the recoupment letter after Hurricane Andrew, but the letter is actually better now then it was. It depends on the "substantive basis" portion that is inserted into the letter.
- FEMA's orientation is towards middle class families, and this recoupment process is not a viable option for low income people.
- It would be an immense service to get FEMA to understand that this is a huge problem.

- **Kang:** The immigrant population that has relocated to Houston has started experiencing some recoupment issues, but the program not heard anything specific yet.
 - **Terry:** This is probably going to be related to the single household rule.
 - **Juliet Choi:** What is happening with the Vietnamese population in Houston?
 - **Kang:** ACORN is working with them right now. Boat People SOS is also there.
- **Terry:** The FEMA regulations talk specifically in terms of discrimination. There is a standard that is very strong. They are not supposed to discriminate based on origin OR on economic status. 44CFR206.11. 42USB5151.
- **Linda:** Memphis is seeing a few recoupment cases, but the larger issue has been contact with FEMA. One of the volunteer attorneys they are working with is going to be writing up a memo of her problematic phone conversations with FEMA.

Updates

Tennessee

- Still struggling with trying to get FEMA to work with them and the volunteer attorneys. FEMA is treating the legal services volunteers horribly.
- Have a large number of evictions. The Methodist ministry has helped to provide utility down payments, which will mitigate some of the eviction issues but not all of them.

Florida

- Affordable housing is on the top of everyone's agenda. Negotiating for FEMA trailers is a big issue. Trying to get more Section 8 vouchers out of the agencies.
- There is a lawsuit going on that has to do with discrimination against immigrants who do not have green cards or are not qualified aliens. This is ongoing. Chuck Elsesser with Florida Legal Services is the lead on this case. Terry will work on getting a copy of the complaint and any other pleadings thus far.
- The other lawsuit has to do with housing issues. Lisa Carmona, Florida Rural Legal Services, is the lead on this case.

ABA

- The names of those who will be on the special disaster relief committee have not been released, but the Chairs are in place.
- Tony Barash is going to New Orleans on Sunday for a week to do pro bono and work with some groups down there.
- YLD and FEMA are meeting on July 20-21, 2006 to discuss the YLD/FEMA Disaster Legal Services contract.
- Working on a memo that incorporates the LSC manual comments and the ABA's comments.

The next call will take place on July 11, 2006 @ 5:00pm EST

Instruction below to activate your conference call:

1. Everyone dials the IDT connect access number at the scheduled time: 1-(866) 266-3378
2. Everyone enters this conference ID number: 202-295-1500
An automated system will answer and prompt parties to enter their password, followed by the #sign.
3. The *Host/Leader* enters his/her password: LSC17#
4. *Participants* enter his/her password: 0007#.
5. Once a person leaves the conference call, an automated system will announce the participant has left.