

**LEGAL SERVICES CORPORATION
KATRINA CONFERENCE CALL NOTES
December 13, 2006**

Update On LSC's Meeting with FEMA

Helaine Barnett - LSC

- Members of LSC staff (Helaine Barnett, Karen Sarjeant, John Eidleman, Willie Abrams and Taylor Healy) meet with FEMA General Counsel David Trissell and other FEMA employees (Mary E. Martinet, Susan Lopez, Michelle Plummer and Linda Davis), as well as ABA/YLD Disaster Liaison Craig Cannon on Monday, December 4, 2006.
- It was a very positive initial meeting.
- The General Counsel was very receptive to understanding that LSC funded programs can play a significant role in the delivery of legal services following a federally declared disaster.
- We are looking forward to using this as a beginning for creating a collaborative working relationship between the two organizations.
- We intend to have follow-up discussions on the specifics that were outlined in the document sent to call-participants earlier.
- This meeting was on a more general level.
- We are hoping to send out a letter to the General Counsel on LSC's activities, lessons learned, and other preliminary issues for later discussions.
- Mr. Trissell recognized that there was a need for the two organizations to work together.
- Nationally some litigation would be avoided.
- Helaine was very pleased with the receptivity of the General Counsel.
- This first meeting was an hour long and we hope to have follow-up meetings where we will identify the problem areas more specifically.
- Craig Cannon stayed after the meeting to talk about creating a better relationship with our programs and the YLD.
- He also wants us to review the YLD contract and different possibilities for getting training money for LSC programs.
- He was very interested in improving the relationship.
- LSC hopes to follow up with Craig Cannon in January.

John Eidleman - LSC

- FEMA mentioned that they were thinking about doing a joint publication for state and local governments and perhaps getting information on legal services into this document.
- They are aware of the lack of communication between our different programs and organizations.
- We discussed the possibility of a contact person at the state and local level for legal services programs to be able to contact.
- The FEMA attorneys are all located in Washington, DC. and they do not have attorneys in the field.
- We talked about linkage between our two web sites.

Chuck Greenfield – Legal Aid Society of Hawaii

- Did you discuss the issue of legal aid programs representing disaster assistance victims vs. FEMA?
- What about having legal aid office contact information and notices on the FEMA letters?

John Idleman

- We made them aware that TRLA had been involved with the ACORN case and they were very aware that legal services programs are involved.
- No, the issue of putting legal aid information on letter has not been raised yet, but we will be including these more specific issues in the follow up letter.
- Trissell is candidly letting us know that he wants to avoid litigation and he realizes that there will be times where it cannot be avoided.

Maria Luisa Mercado – Lone Star Legal Aid

- Where there any other substantive issues discussed? Recoupment?

John Idleman

- There really was not that kind of detail involved in this initial meeting, but we do intend to talk about this issue.

Helaine Barnett

- The follow-up letter is not going to contain all the issues.
- We want to have contact people at both organizations in order to discuss the specific issues.
- We probably will not have the issues in our follow-up letter in any kind of detail.

Maria Luisa Mercado

- Part of the concern is that at the end of February and March these clients will not have any rental assistance. At what point are legal services and FEMA going to talk to discuss these issues coming up?

Helaine Barnett

- We are looking to expedite our talking with FEMA. Will notified them that there are issues of urgency

John Idleman

- Dealing with administrative agencies, we know that we have to be assertive so we will not sit and wait for them to come to us.

Helaine Barnett

- We can certainly indicate the two issues that we have heard so far.

Maria Luisa Mercado

- It still appears that recoupment is being targeted at SSI people. This should be mentioned with the other issues.

ACORN v. FEMA case

Michael Kirkpatrick – Public Citizen

- Today they were in court for a few hours talking about a compliance plan and trying to get FEMA to comply with the preliminary injunction.
- They are seeking a stay in the DC circuit.
- The government has until 4pm on Monday Dec. 18 to file a reply.
- Will know next week if the DC circuit will enter a stay of appeal or not.
- Judge Leon is very interested in pushing FEMA forward to start things moving.
- So far FEMA has been putting their momentum into the appeal.
- Today there was a lot of discussion about getting a compliance plan.
- The status hearing is on Monday, December 18.
- Probably have FEMA witnesses who will be questioned about the plan for complying with the judge's order.
- Thing definitely went in favor of ACORN in terms of pushing for compliance.
- Clearly FEMA is dragging its feet and saying it is going to be hard to comply with the order.
- They filed the case at the end of August with TRLA.
- The emergency was that people still on 403 (5,479 households in TX) had been denied to 408. The denial letters did not have enough information.
- Had a telephone hearing on August 31st and the TRO was denied.
- In the preliminary injunction on September 15 it was argued and nothing happened for 10 weeks.
- On November 29th, the court issued an order requiring 3 things: 1) FEMA provide ASAP a reason for denial of 408 and time to appeal 2) Immediate reinstatement of 403 to those people 3) and to have them get paid the benefits for those 3 months that they had not received.
- The government immediately appealed and read the order very broadly.
- The judge has written a letter clarifying that it only applies to people who were getting 403 on August 31.
- Do have a determination that 408 is a property interest and that the letters did not adhere to due process.
- Some things that came out of this may be able to be used in other cases in other places.
- This case focuses on those 5,000 families in Texas.
- Unless they letter a stay, then the government does not have to comply and they will have an expedited briefing in the DC circuit and the case will not be resolved until after 408 ends.
- Pleased that the court understands the urgency and is trying to move forward.

Steve Fischbach – Rhode Island Legal Services, Inc.

- Did the judge say anything about the aid pending appeals?

Michael Kirkpatrick

- No, this was not specifically addressed, but he mentioned that people have 60 days to appeal and he wants the immediate reinstatement of 403. The judge recognizes that this will carry people to February absent an extension.

- Clearly his order is that everyone be restored to 403 until they get an adequate 408 notice and a chance to appeal.
- The judge clearly wants the people to be getting benefits during the appeals process.
- The order does not apply outside of Texas.
- Have been informed that the order was limited to people who were still receiving 403 as of August 31 and were cut off after that date.
- Most of the 5,000 families are in Houston, but 4 PAs Houston, san antonoi, Austin, one other
- These numbers have changed from time to time with little explanation, but they may not be exact.

Comment [h1]: I don't remember what PA is. Do you?

Affordable Housing in New Orleans

John Idleman

- What is going on with the 5,000 units that were there pre-Katrina?

Mark Moreau – Southeast Louisiana Legal Services - NOLAC

- They are planning on demolishing part of the project.
- There is a class action pending, but obviously not in their program.
- Some of their attorneys went to the public hearing.
- The housing authority has already made up its mind and is not listening to people.
- Hoping the court will do something, but they cannot get involved because it is a class action.
- The Morris v. FEMA case that NOLAC handled is over.
- FEMA threatened to recoup from the client but then offered him a deal. They said they had overpaid by \$15,000 - \$16,000.
- The case they thought they had regarding the FEMA appeals process will have to be litigated in another case.
- Have a few clients who may be interested in going in on that issue.
- Most recently, they got a stay of eviction for 6 weeks for a group of tenants.
- Ended up helping 20 individual tenants and the judge ended up granting all 100 families the 6 week stay of eviction.
- So many post-Katrina cases have really required class actions and they are very fortunate that people and other groups have been willing to do them.

Chuck Greenfield

- What is the update on the insufficiency of the FEMA appeals system?

Mark Moreau

- It is a statutory requirement and FEMA has not done it.
- A few years ago FEMA had a much more detailed appeals system for individuals but not any more.
- Wanted to get into that issue as well during the Morris case, but it was in the client's best interest to take their settlement.
- Today FEMA gives you a notice and you have 60 days to appeal, but the notice is meaningless because it does not cite the law or the evidence.

- The Morris case was similar to some of the people in the ACORN case. The client was being denied because a previous owner had received FEMA assistance and then it was discovered that the prior owner had *never* received FEMA funding.

Chuck Greenfield

- Before FEMA made changes to their regulation, Chuck litigated a case in 1999 and it said that the APA applied.

Mark Moreau

- Currently NOLAC is trying to argue under the APA that FEMA needs to establish a fair and impartial appeals process and they have not done that in their opinion.

Maria Luisa Mercado

- All the issues being litigated are the things they see with hundreds of their clients.
- Not providing notice, very vague reasons, and now they are starting to see a lot more recoupment cases.
- It is good to hear that someone can do the class actions and that will spill over to their clients.
- So far all the recoupment cases that she has had that have come through the hotline and clinic have been people on SSI, social security and veterans' benefits and the office has not received one that was not related to some kind of government benefit.
- Believes they are using these people as an easier target because they can put a lean on those government benefits.
- The veterans are very upset because their benefits are attached and they do not know how they are going to survive.
- So far the cases have not been fraud cases. They have been eligible people.
- In none of those appeals cases have they heard back from FEMA about whether or not they agree with the assessment on the case.

Tracy Figueroa – Texas Rio Grande Legal Aid

- TRLA has had one client in a recoupment case that is not receiving any kind of government benefits.
- Will check with others in her program to see if she can get a better number.

Maria Luisa Mercado

- So far they have had 25-30 recoupment cases, which is something that has happened in the last month. Before then they were not seeing the recoupment cases.
- One of the common types of cases that are starting to occur is that FEMA is trying to recoup the initial \$2000 that was given to people with no basis for why they were found ineligible.

Tracy Figueroa

- Was talking to a FEMA case worker a few weeks ago about a client's case and was able to speak with two FEMA representatives who were helpful.
- Asked him how much of the client's benefits he could process.
- This is rental assistance and also retroactive benefits.
- This client has not received assistance since Katrina.
- When Tracy asked if she could have one case worker to refer this to the FEMA representative said no, that they do not do that.
- FEMA says they do not want ownership of these policies.
- The case workers are really not being told how to do these things and that they are susceptible.
- The FEMA case workers said that he could process a case one way and then another case worker could come back and change it.
- The calls and cases are randomly assigned.
- The employee said case workers are pressured to "meet their numbers."
- They are allowed to communicate with other case workers who saw that case, but not really. They usually do not read the whole file
- This information indicates that there may be some quotas going on.
- It is unclear if the people who answer the FEMA helpline are a processor or if they just answer the questions.
- At least some are processing the files.
- If you call and get someone who is not receptive it makes you want to hang up and call again to see if you get someone else.
- TRLA has dealt with FEMA people in the Austin regional office but that was with clients who were disabled.
- Generally they call the helpline or send the appeals to the national processing center.

John Idleman

- Where are the people on the helpline?

Tracy Figueroa

- Maybe Maryland, but not sure.

John Idleman

- We raised the issue with FEMA that they don't publicize their organizational structure chart and FEMA told us that they do not have one.

Tracy Figueroa

- Unless you can appeal all issues at once you just do not get any kind of definitive answer.
- The people on the phone cannot tell you a lot of things when they look at the file.

Maria Luisa Mercado

- Is LSC going to try and bring up the issue of the funding that was allocated for the home repair and replacement for Katrina and Rita survivors, because in their area little or no money has been allocated?
- It is not clear where the money is or how to access it.

John Idleman

- We will put this on our list of issues to send to FEMA.

Don Saunders - NLADA

- Was in Louisiana and at the NLADA Conference and looks forward to getting more involved in the calls.
- The FEMA issues are something NLADA would like to help callers out with.

Terry Brooks - ABA

- Had a meeting with the YLD staff director and hopes to work with her on building that relationship.

John Idleman

- Craig Cannon is very interested in this relationship and he has made the offer that we look at the contract between the YLD and FEMA.

Maria Luisa Mercado

- Was in Mississippi last week for a community lawyering conference with the Gulf Coast States.
- It seems that it would be productive to have a meeting with the people in the trenches working with these different issues.
- The people on the ground feel like they are a little out of the loop and they are not really coordinating with other states.
- These calls might be a good medium.
- We might want to throw out the web more broadly to include people who are in the trenches doing these cases day in and day out.
- It appeared that prior to this meeting, the case handlers were not getting the chance to talk to one another.

John Idleman

- Is the suggestion that LSC try and set up meetings between them?

Maria Luisa Mercado

- Because everyone there was doing disaster related work it seems that there should be an umbrella organization that helps them to meet a little more often.

Next Call on January 9th at 5pm EST