

**MEMORANDUM OF AGREEMENT BETWEEN THE FEDERAL EMERGENCY
MANAGEMENT AGENCY AND THE AMERICAN BAR ASSOCIATION REGARDING
DISASTER LEGAL SERVICES**

1. PARTIES

The parties to this Agreement are the Federal Emergency Management Agency (FEMA)/U.S. Department of Homeland Security (DHS), and the American Bar Association (ABA) on behalf of its Young Lawyers Division (YLD).

2. AUTHORITY

- a. Each party warrants and represents to the other that it has the authority to enter into this Agreement.
- b. FEMA is authorized to provide Disaster Legal Services (“DLS”) to disaster victims pursuant to 42 U.S.C. Section 5182 and 44 C.F.R. Section 206.164 when the President of the United States declares a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, Public Law 93-288, as amended (the Stafford Act), 42 U.S.C. 5121, et seq.

3. PURPOSE

- a. The purpose of this Agreement is to set forth the terms by which the YLD, when requested by FEMA, will provide legal services to low-income disaster victims in the aftermath of a “major disaster” as defined in the Stafford Act.
- b. Both parties believe that it is in the best interest of low-income disaster victims to develop and maintain a coordinated legal services delivery system to make available lawyers and legal support personnel from diverse practice settings with the expertise, skills and experience to meet the legal assistance needs of such persons.

4. DEFINITIONS

- a. “Fee-generating case” for the purpose of this Agreement, shall be as defined in 44 C.F.R. Section 206.164(b).
- b. “Federal Coordinating Officer” shall be as defined in 42 U.S.C. Section 5143.
- c. “Legal services,” for the purpose of this Agreement, shall mean legal counseling and advice, referral to appropriate sources of legal services or disaster assistance and legal representation in non-fee-generating cases. Legal services are authorized only to assist disaster victims in securing benefits under the Stafford Act, and in resolving matters arising out of the disaster.
- d. “Low-income disaster victim,” for the purpose of this Agreement, shall refer to a disaster victim who has insufficient resources to secure adequate legal services, regardless of whether the insufficiency existed prior to the disaster.

- e. "Participating Attorney," for the purpose of this Agreement, shall refer to those attorneys who are licensed, or otherwise qualified, to practice and are in good standing in the jurisdiction where the disaster occurred and who volunteer under this Agreement to provide legal services to low income victims of a disaster, including but not limited to, individual attorneys, law firms, not-for-profit legal service providers, Legal Services Corporation recipients, state and local bar associations and pro bono organizations.

5. RESPONSIBILITIES

a. FEMA:

- (1) FEMA will forward written requests to the YLD's National Coordinator of Disaster Legal Services to implement disaster legal services.
- (2) In the event that FEMA does not request the YLD to assist in providing legal services, nothing in this Agreement, nor in the plans developed pursuant to this Agreement, is intended to preclude FEMA from providing legal services in any other manner it elects, provided that FEMA notifies the YLD's National Coordinator of Disaster Legal Services prior to taking such action. In all such cases, the YLD will be relieved of its obligations arising out of this Agreement.
- (3) At its discretion, FEMA shall assist and actively participate in the training of Participating Attorneys and, in accordance with the submission and approval of a FEMA Form 40-1, Requisition and Commitment for Services and Supplies, pay the reasonable travel expenses of the YLD National Coordinator, the YLD Assistant National Coordinators, the YLD representatives and any other necessary YLD personnel to FEMA-sponsored training sessions and meetings with FEMA personnel. This may include disaster site specific training as well as annual national training. All expenses must be approved in advance by FEMA. Once FEMA has approved a specific amount for expenses and the YLD has paid the funds on the basis of the approved FEMA purchase order, FEMA will reimburse the YLD for the full amount of eligible, approved expenses. Nothing in this Agreement obligates the funds of FEMA. The process for reimbursement is commenced by submission and approval of FEMA Form(s) 40-1 for the actual obligation of federal funds.
- (4) FEMA agrees to provide the YLD with administrative support or reimbursement for reasonable administrative expenses, including office space and supplies, secretarial services, and official telephone expenses in connection with disaster legal services rendered at FEMA's request. FEMA also agrees to reimburse the YLD for reasonable administrative expenses incurred in conducting disaster legal service related committee work such as training, telephone expenses, printing expenses, distribution costs and travel. All expenses must be approved in advance by FEMA. Once FEMA has approved a specific amount for expenses in accordance with the submission and approval of a FEMA Form 40-1, Requisition and Commitment for Services and Supplies, and the YLD has paid the funds on the basis of the approved FEMA purchase order, FEMA will reimburse the YLD for the full amount of eligible, approved expenses. Nothing in this Agreement obligates the funds of FEMA. The process for reimbursement is commenced by

submission and approval of FEMA Form(s) 40-1 for the actual obligation of federal funds.

- (5) With respect to each major disaster, following consultation with the YLD, FEMA will determine when the conditions requiring the delivery of legal services under this Agreement have ended.

b. YLD:

- (1) The YLD agrees to assist FEMA in providing legal services to low income disaster victims when requested to do so in writing by FEMA.
- (2) As part of this Agreement, the YLD agrees to undertake the following activities:
 - i. Maintain a roster of YLD representatives charged with coordinating the delivery of legal services to disaster victims;
 - ii. Provide initial and periodic training, in cooperation with FEMA, to the YLD representatives regarding their obligations to coordinate the delivery of legal services to disaster victims;
 - iii. The YLD, in conjunction with FEMA, may invite individuals or other organizations to present at or participate in training sessions;
 - iv. Coordinate the mobilization of Participating Attorneys to provide free legal services to low income disaster victims until the conditions requiring the delivery of legal services under this Agreement have ended;
 - v. Maintain direct communication with FEMA at the national, regional and field office levels, and serve as a conduit in transmitting materials received from FEMA and other Federal agencies;
 - vi. Report the number and types of cases being handled by Participating Attorneys to FEMA on a weekly basis; and
 - vii. Provide such additional services as are agreed upon by the parties consistent with this Agreement.
- (3) When FEMA requests the assistance of the YLD pursuant to this Agreement, the YLD shall have the sole and complete authority to coordinate and manage the delivery of legal services to disaster victims as follows:
 - i. The DLS Program, like all other Federal disaster assistance programs, is subject to coordination by the Federal Coordinating Officer. The YLD will establish, in conjunction with FEMA, a disaster specific program which will outline the planned services and methodology for implementation of legal services for the particular disaster;
 - ii. The YLD shall use its best efforts to coordinate the delivery of legal services by collaborating with other qualified organizations, including, but not limited to, law firms, not-for-profit legal service providers, Legal Services Corporation and its recipients, state and local bar associations and pro bono organizations that it believes will be able to effectively assist in providing disaster legal assistance to disaster victims. This includes the use of established state and local bar telephone numbers for use as a hotline number; and
 - iii. The coordination of the delivery of legal services by collaborating with other qualified organizations may include, but not be limited to (a) the referral of

eligible clients to such organizations when such clients are unable, for any reason, to be assisted by Participating Attorneys at disaster recovery or assistance centers or by way of telephone hotlines and (b) affording the personnel employed by or affiliated with such organizations (including paralegals) reasonable access to disaster recovery or assistance centers and telephone hotlines.

c. Participating Attorneys:

- (1) FEMA considers the Participating Attorneys providing legal services pursuant to this Agreement to be volunteer, independent contractors, not employees or agents of the Federal Government. Under this Agreement, FEMA assists with the coordination of disaster legal services to disaster victims, but exercises no control over the attorney/client relationships established between disaster victims and Participating Attorneys.
- (2) No compensation shall be paid to or accepted by Participating Attorneys from disaster victims for legal services rendered pursuant to this Agreement.
- (3) Fee-generating cases shall not be accepted by a Participating Attorney providing legal services under this Agreement. Any disaster victim that requests disaster legal assistance in connection with a fee-generating case shall be referred by the Participating Attorney to a qualified state or local lawyer referral network serving the affected disaster area. Where such referrals are impractical or impossible, the Participating Attorney shall refer the disaster victim to the state bar association for the state in which the disaster occurred.
- (4) Participating Attorneys shall perform in accordance with the Stafford Act and its implementing regulations. All Participating Attorneys will undertake to review FEMA training materials related to DLS.
- (5) Neither FEMA nor the United States, on the one hand, nor the ABA nor the YLD, on the other hand, shall be responsible for the negligence or misconduct of any Participating Attorneys who provide legal services pursuant to this Agreement.
- (6) No Participating Attorney shall be held liable by FEMA for malpractice associated with his or her performance under this Agreement.
- (7) Nothing in this Agreement shall interfere with a Participating Attorney's ability to comply with any other requirements or restrictions to which the attorney may be subject. If a Participating Attorney, for any reason, is unable to assist an eligible client, an appropriate referral will be made within the DLS program.

6. POINTS OF CONTACT

The points of contact for FEMA and the YLD will be identified in writing to the other party, on an annual basis, within ten (10) days of the anniversary of the execution of this Agreement.

7. OTHER PROVISIONS

- a. Nothing in this Agreement is intended to conflict with current law or the regulations or directives of the DHS, FEMA, or the ABA. If a term of this Agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.
- b. This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the coordination of legal services by the YLD and contains all the covenants and agreements between the parties with respect to such services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.
- c. As required by Section 308 of the Stafford Act (42 U.S.C. Section 5151), the disaster legal services program provided for under this Agreement shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status. FEMA has determined that the provision of legal services to low income disaster victims, as required by Section 415 of the Stafford Act (42 U.S.C. Section 5182), is not inconsistent with Section 308 of the Stafford Act.

8. EFFECTIVE DATE.

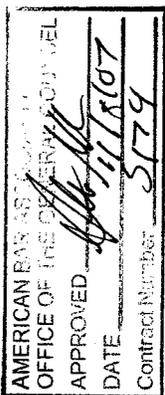
This Agreement will become effective on the date as signed by the last party.

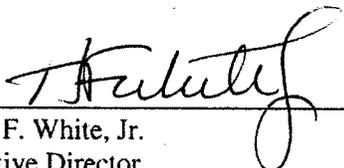
9. MODIFICATION

This Agreement may be modified upon the mutual written consent of the authorized representatives of the parties.

10. TERMINATION

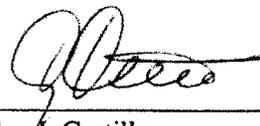
The terms of this Agreement, as modified with the consent of both parties, will remain in effect until the fifth anniversary of the date of its execution. This Agreement may be extended by written mutual agreement of the parties. Either party upon ninety (90) days written notice to the other may terminate this Agreement.





Henry F. White, Jr.
Executive Director
American Bar Association

11/8/07
Date



Carlos J. Castillo
Assistant Administrator
Disaster Assistance Directorate
Federal Emergency Management Agency

11/1/07
Date