

EMERGENCY LEGAL SERVICES: A Bridge Over Troubled Waters

by Shawn Copeland



Credit: The Library of Virginia

Aerial view of Franklin, 1999, provided by Virginia State Police.

The most visible efforts at delivering relief to victims of natural disasters and mass emergencies often involve the provision of basic life necessities such as food, shelter, and clothing. Consider what happens when a landlord continues to demand rent from a tenant for an apartment rendered uninhabitable by flood waters, or a homeowner is poised to be “hoodwinked” by a fly-by-night contractor promising quick repairs to a home damaged by hurricane winds, or a family whose home has been washed away in a mudslide needs to assemble copies of important legal documents lost in the disaster. While an attorney may not be the first person that comes to mind when you think of disaster relief workers, victims frequently need immediate legal assistance. The Virginia Emergency Legal Services Program is working to meet these needs.

Since 1995, the statewide program has provided pro bono legal assistance to the victims of mass emergencies and disasters in the Commonwealth. The Virginia ELS is a joint effort between the Virginia State Bar Young Lawyers Conference and the Virginia Bar Association Young Lawyers Division. Virginia ELS is modeled upon and affiliated with the ABA’s Disaster Legal Services Program, but it is broader in scope. For example, Virginia ELS is designed to respond in crises other than federally-declared disasters. The primary vehicle for accomplishing the Program’s mission has been the creation and maintenance of a network of volunteers throughout Virginia that, because of advance training specific to disaster-related legal needs, is prepared to deliver emergency legal services when and where disaster strikes.

Unlike many other pro bono efforts of the bar that operate on a continual basis, the ELS Program is activated only when an

emergency or disaster of significant proportion strikes. Both the state and federal governments have the statutory and regulatory authority to make arrangements for the provision of legal services to victims of disaster in connection with the declaration of a disaster area by the Governor alone, or by the Governor and the President. See 42 U.S.C. § 5281; Va. Code Ann. § 44-146.16 to 44-146.18. Even where there has been no state or federal disaster declaration, the presidents of the VSB and the VBA may, after consultation with appropriate state and local bar and legal services organizations, direct the VSB-YLC and VBA-YLD to activate volunteer relief efforts through the ELS Program. The Virginia ELS Program typically is activated in response to a joint declaration of disaster by the state and federal governments. ELS lawyers provide volunteer services through federal-state relief efforts coordinated by the Federal Emergency Management Agency (FEMA) and the Virginia Department of Emergency Services (VDES).

In the past five years ELS volunteers have played an increasingly significant role in the multifaceted relief efforts coordinated by FEMA and VDES in every major Virginia disaster.

- The “Blizzard of 1996” produced significant flooding throughout southwestern Virginia and President Clinton declared 27 Virginia cities and counties to be “disaster areas” under federal law. Volunteer attorneys were mobilized to assist the victims. In cooperation with federal and state emergency personnel, the availability of free legal assistance was publicized through press releases, fliers, and radio advertisements. A toll-free hotline was established. For more than six weeks, volunteer attorneys answered questions regarding insurance claims, landlord-tenant disputes, and issues relating to home repairs and disputes with building contractors.
- The Program mobilized in July 1996 to respond to tornado damage sustained by the small, rural community of Edwardsville in Northumberland County, Virginia. While not declared a disaster area by either federal or state officials, program administrators were alerted by the local county board of supervisors to the possible need for disaster legal services.
- When Hurricane Fran struck Virginia in September 1996 and the President declared much of the state federal disaster areas, the program worked with federal and state emergency officials to publicize a toll-free hotline in media across Virginia. More than 30 volunteer attorneys provided legal assistance to more than 40 disaster victims from at least 11 of Virginia’s 30 judicial circuits.
- While the effects of Hurricane Bonnie on Virginia in 1998 were far less severe than weather officials originally predicted, they were significant enough to engage the services of several ELS volunteers in the Tidewater area.
- Most recently, ELS volunteers assisted victims of the back-to-back thrashings of the Tidewater area and the City of Franklin by Hurricanes Dennis and Floyd in September 1999. More than 50 volunteer attorneys participated in the ELS relief effort, which is estimated to have involved more than 75 disaster victims.



Credit: The Library of Virginia

photo by Belinda Pillow, 1999

Downtown Franklin, water at highest level.

More than 100 trained attorneys statewide are responsible for the success and continued vitality of Virginia’s ELS Program. The connection between these volunteer attorneys and the disaster victims they serve is made in either of two ways. First, volunteers staff client intake stations at FEMA-VDES Disaster Recovery Centers and meet victims face-to-face. They either accept representation of the victim or refer the representation to another ELS volunteer. Second, disaster victims are referred to ELS volunteer attorneys through the Virginia Lawyer Referral Service, the telephone number that is widely published within disaster areas.

Once the link has been established between the disaster victim and an ELS volunteer, the volunteer agrees to be responsible for the victim and to represent the victim’s interest as in any other attorney-client relationship. Most representations do not involve complex legal issues or litigation, but consist of interceding on the client’s behalf with third parties such as creditors, landlords, and insurance companies. At other times, victims ask their ELS attorney for more practical guidance in locating copies of lost or destroyed documents, or taking the necessary steps to file an insurance claim. While these matters frequently can be resolved promptly with a series of phone calls or letters, ELS volunteers nevertheless will do whatever factual and legal research may be necessary to advance their client’s interest and when necessary, to remain engaged—even in the rare instances involving litigation.

A volunteer’s best resources are his or her own basic legal skills and practical problem-solving abilities. He or she has the benefit of a two-hour training session and written materials that provide an overview of insurance, landlord-tenant, and consumer protection. (Completion of the training session, which is a prerequisite to participating as an ELS volunteer, brings two free hours of continuing legal education credit.) Also, while the program is distinct from legal aid societies, it has nevertheless enjoyed assistance from legal aid attorneys.

Representation of a disaster victim through the ELS Program may encompass a wide variety of subject matters. But there are certain limitations on the representation that both attorney and client should be aware. For example, ELS attorneys may not accept “fee-generating” cases, i.e. cases that a lawyer ordinarily would accept for compensation, whether on a contingency fee basis or other arrangement. Moreover, ELS volunteers participat-



Credit: *The Library of Virginia* photo by *Belinda Pillow, 1999*
 Kingsdale community, Southampton County.

ing in relief efforts coordinated through FEMA and VDES may not accept cases when it is likely that the client will have a claim against a local, state or federal government entity.

Notwithstanding these limitations, the ELS Program provides Virginia’s disaster victims with a wide range of assistance where it is most often desperately needed. In so doing, it helps the organized bar fulfill its commitment to the public interest while providing volunteer attorneys with highly gratifying pro bono experiences.

If you are interested in participating in this important endeavor, you should contact either your local VSB-YLC circuit representative or Shawn Copeland, Chairman of the VSB-YLC Committee (804/788-8514; scopeland@hunton.com). [↗](#)



Shawn Copeland received his undergraduate and law degrees at Washington & Lee University. He is an associate at Hunton & Williams in Richmond, and is the winner of the R. Edwin Burnette, Jr. Young Lawyer of the Year Award (see story page 31).

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