

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.130(7.60) Kentucky Bar Association Disaster Response Plan

- (a) It is the purpose of the Kentucky Disaster Response Plan to:
- (1) address the problems that occur when lawyers and non-lawyers, who are not subject to the disciplinary jurisdiction of the Association and the Kentucky Supreme Court, engage in the provision of legal services, legal advice, and outright solicitation of persons and their families affected by a Disaster;
 - (2) provide information to the public regarding the availability of legal services, as well as information regarding the legal rights available to persons affected by disasters.
 - (3) monitor the conduct of all attorneys, both members and non-members of the Association, and thereby deter violations of the rules of ethical conduct and the rules of the Association.
 - (4) inform the public of the levels of conduct required of members of the Association and notify the public that it is improper for attorneys to solicit employment either in person or through runners, agents, solicitors, or others in such a manner as to create direct contact between the attorney seeking such employment and the potential claimant.
- (b) It is the policy of the Association to encourage and promote the highest ethical standards among attorneys practicing within its borders. Realizing the emotional distress and grief that are inevitable immediately following a Disaster, the Kentucky Bar Association Disaster Response Plan (hereafter Plan) is established to facilitate the handling of these situations in a manner that best protects the interests of the persons involved as well as the legal community.
- (c) For purposes of the Plan, a "Disaster" shall mean the type of emergency or disaster that draws persons to solicit clients. This includes, but is not limited to, air crash, major fire, explosion, sea disaster, hazardous material contamination, flood, landslide, major rail or traffic accident, earthquake, or other circumstances resulting in substantial loss of life, substantial personal injury, or substantial property damage.
- (d) It shall be the responsibility of the Immediate Past President of the Association (hereafter Past President) or if the Past President is absent from the state or physically or mentally unable to act, the Director of the Association, or their designee, to identify a Disaster.
- (e) The Kentucky Mass Disaster Task Force, (hereafter "Task Force") is hereby created from the Association membership in a sufficient number of "units" at the discretion of the Board to provide Disaster services. A unit of the Task Force shall consist of at least one member of the Board; one member of the Court of Justice; and one or more additional designees to each unit as appointed by the Past President.
- (f) The Task Force shall meet promptly upon learning of an identified Disaster and shall establish a "legal service information center."
- (g) The Task Force shall be provided with printed literature identifying the purpose of the Task Force, a press release identifying the unit of the Task Force, and any additional materials and equipment that the Past President, the Director, or the unit members themselves believe necessary to accomplish their purpose.
- (h) The units of the Task Force shall be prepared to inform affected persons that:
- (1) decisions regarding most legal matters and legal claims (other than those requiring immediate attention for the preservation of life or health of a person) are generally decisions that are better made after reasonable and thoughtful consideration and after consultation with the appropriate professionals, including attorneys;
 - (2) legal services are available to persons affected by Disasters;

- (3) persons and entities who sustain damage by reason of the wrongful conduct of another may be entitled to recover damages;
- (4) "Statutes of Limitations" exist which apply to various causes of action within the Commonwealth of Kentucky and, in certain circumstances, to Federal causes of action;
- (5) any person or entity believing he or she has been damaged by the wrongful acts of another should seek legal advice to determine the applicable statute of limitations;
- (6) only those persons who have been admitted to practice law in the Commonwealth of Kentucky and those persons who are lawfully associated with them in practice may appear and present claims within the Courts of the Commonwealth of Kentucky;
- (7) no person affected by a Disaster is obligated by law to furnish information regarding the occurrence to any representative of the media, or to investigators, insurance agents and adjusters (other than as required by the persons own insurers), attorneys, or other members of the public, except that a person who has observed conduct that may be identified as "criminal activity" is obligated to furnish information pertaining to criminal activity to lawfully constituted legal authorities;
- (8) the affected persons should make a diligent effort to observe all conditions pertaining to the Disaster, and to make such appropriate records or notations as necessary in the circumstances to memorialize their recollections of the Disaster;
- (9) if there are witnesses to the Disaster, it may be important to obtain the names, addresses, and telephone numbers of those witnesses, and to retain them for future reference;
- (10) that Kentucky law does not certify specialties and that the members of the unit and their partners, associates, members of their firms, and other lawyers associated with them are not permitted to accept employment for the provision of legal services regarding the Disaster;
- (11) the services provided by the unit are for informational purposes only; and
- (12) each person or entity interested in legal services should seek the advice of private counsel selected by that person or entity.

(i) The Task Force shall investigate to determine if runners, attorneys, or others have been soliciting or attempting to solicit victims, relatives of victims, or others as clients for matters related to the Disaster. The Task Force shall designate from its members a person to receive any complaints or inquiries concerning suspected improper solicitation. As soon as is reasonably practicable, such designee shall furnish such information to the Director Association or his designee.

(j) The Task Force shall be subject to the following restrictions:

- (1) no member of the Task Force shall offer specific legal advice to anyone regarding the Disaster, nor shall he refer a person to a particular lawyer or law firm. Upon inquiry and to the extent necessary to respond, a member of the Task Force may refer a person to other agencies or groups for information or assistance.
- (2) no member of the unit assigned to a particular Disaster, nor any of his partners, members of his firm, associates, or other lawyers associated with the member shall be permitted to accept any employment relating to any matter arising out of that Disaster.
- (3) the Task Force shall not issue any news releases or make any public statements on behalf of the Association without the specific prior approval of the Director.

(k) The reasonable expenses incurred by each unit member of the Task Force in training and providing services as contemplated herein, as well as the cost of the equipment and supplies necessary to provide the service shall be paid from the General Fund of the Association unless the same expenses shall be provided from IOLTA funds of the Association, funds obtained from private sources, grants or donations; or from funds otherwise appropriated by the Kentucky General Assembly, including discretionary funds of the Governor of Kentucky or other elected officials. Each unit of the Task Force shall be authorized to obtain when necessary such secretarial and clerical assistance as appropriate in the circumstances of the particular Disaster.

HISTORY: Amended by Order 2009-05, eff. 7-15-09; prior amendments eff. 1-1-06 (Order 2005-10; adopted by Order 92-1, eff. 8-1-92