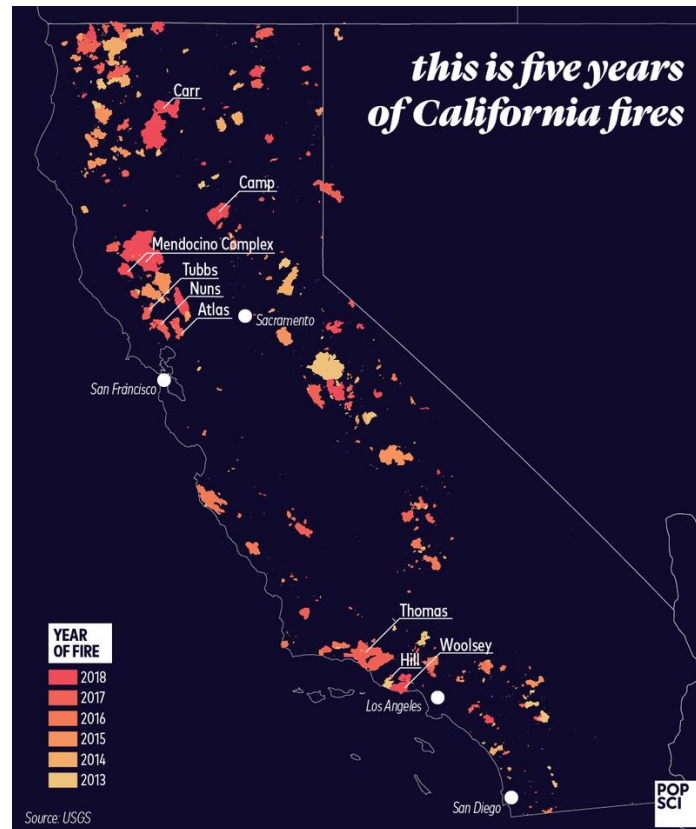


**Access Commission Rural Disaster White Paper Draft**  
February 2019

**Wildfires Impact Rural Communities**

2018 alone saw ten federally declared disasters in California, and 12 declared by Governor Brown.<sup>1</sup> Map 1 illustrates that the primary impact of many of these disasters was in rural communities,<sup>2</sup> such as the November 2018 Camp Fire. That fire was the deadliest and most destructive wildfire in California history, claiming 85 lives, destroying or damaging some 14,000 structures, and causing \$7 billion in damage.<sup>3</sup> California's declared disasters largely happened in rural parts of the state, from the Klamathon Fire in Siskiyou County to the Ferguson Fire in Mariposa County to the Ranch and River fires in Mendocino County.<sup>4</sup> The 2015 Valley fire in Lake, Sonoma, and Napa Counties caused \$1.5 billion in damage; the Butte fire in Calaveras and Amador counties caused \$450 million worth of damage.<sup>5</sup> The intensity and frequency of such disasters demands unparalleled levels of resources and support for communities in the recovery process. The resources must include access to legal aid attorneys who can assist low-income rural populations with the many civil legal issues that arise after a disaster, from housing to FEMA to public benefits.

## MAP 1: GEOGRAPHY OF CALIFORNIA WILDFIRES

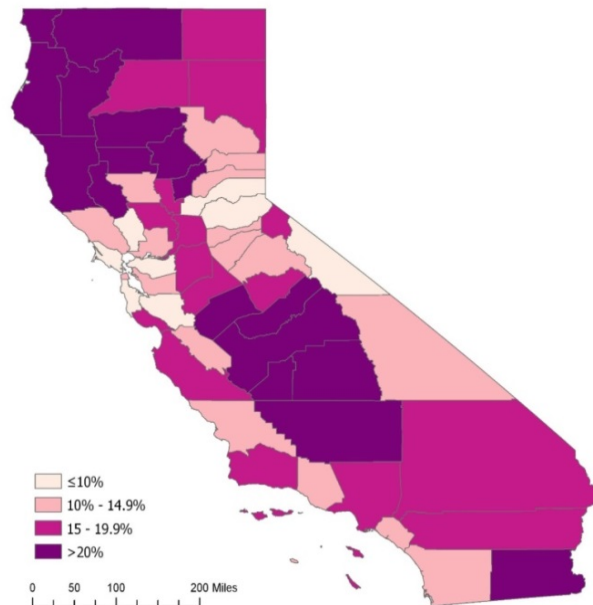


Source: <https://www.popsci.com/california-five-year-wildfire#page-2> using data from the United States Geological Survey.

The places hardest-hit by disasters within affected parts of the state can be particularly impoverished. Low-income neighborhoods and communities of color are the slowest to recover after a natural disaster.<sup>6</sup> 10 million people with incomes below 125% of the federal poverty level live in rural places in the United States.<sup>7</sup> Rural areas often have higher poverty rates, as Map 2 illustrates, which also means that rural areas hit by the wildfires often have high poverty rates, such as Lake County (25%); Mendocino County (20%); and Shasta County (17.5%).<sup>8</sup> Natural disasters aggravate poverty: People without many resources lose their homes, personal possessions, and livelihoods, and they do not have the resources to recover financially.<sup>9</sup> Those who can afford to leave the area often do, while low-income residents are more likely to remain behind.<sup>10</sup> Major disasters typically increase a county's poverty rate by an average of 1%.<sup>11</sup>

Intersecting with rural poverty, housing costs aggravate poverty across the state, contributing to California's poverty rate of nearly 20% (or 7.5 million people).<sup>12</sup> Overall, more than 50% of California renters are cost-burdened (meaning the household spends 30% or more of income on housing costs), and nearly a third are *severely* cost-burdened (the household spends over 50% of income on housing).<sup>13</sup> Disaster, poverty, and housing all interact in California in multifaceted ways, including by dramatically reducing the existing housing stock in areas already facing shortages.<sup>14</sup> For instance, the Camp Fire exacerbated a preexisting shortage of affordable housing (Butte County had a mere 2% vacancy rate) and contributed to homelessness by destroying thousands of residences.<sup>15</sup> Disasters also aggravate the vulnerability of populations such as the elderly, children, people with disabilities, veterans, domestic violence survivors, and migrant and seasonal farmworkers, all groups that tend to be overrepresented in poor rural locales.

MAP 2: POVERTY RATE BY COUNTY



The role of civil legal aid is to address the civil manifestations of poverty by providing legal services to low-income people, so legal aid is pivotal to the disaster recovery process. The need for free legal help is often enormous because of the high degree of damage and disruption after a disaster. This was well-documented after Hurricane Katrina,<sup>16</sup> when legal aid and lawyers assisted victims in navigating and

remedying a range of problems arising directly out of the disaster. The issues facing those affected by a natural disaster may not appear at first glance to be legal issues, yet many do implicate law and legal processes: Housing (habitability, eviction, and foreclosure), insurance, wills and trusts, family law, access to government benefits, employment (unlawful job termination, unsafe working conditions), consumer issues (price-gouging, being the victim of a crime like contractor fraud), or FEMA claim denial.<sup>17</sup>

Legal aid thus plays a crucial role in providing immediate and long-term comprehensive services to low-income people during recovery. That assistance addresses all of the myriad legal issues people face following disaster. Legal aid lawyers can explain legal options, remedies, and avenues for dealing effectively with issues. Such assistance can be critical to securing redress and ensuring that recovery from disasters is equitable. Civil legal aid lawyers help those affected by disaster to reclaim stability, whether through advice and interventions regarding employment, housing assistance, health care access, or insurance.<sup>18</sup>

The particular vulnerability low-income communities experience during disaster and recovery means that access to legal aid is critical to helping people deal with myriad issues for which they otherwise would not seek legal remediation: challenging a boss's exploitative conduct, ensuring receipt of public benefits to which they are entitled, addressing price-gouging, defending against an illegal eviction, and appealing FEMA denials. Legal aid is there after a disaster to assist low-income rural residents with these and other issues. Disasters do not discriminate, but the recovery process can as a consequence of uneven access to assistance. Ensuring that low-income communities have what they need is critical, and access to legal services is integral to fair and equitable processes.

The goals of this paper are to describe the common issues that low-income Californians can face in rural areas after a disaster hits and the importance of legal aid in providing direct services. This paper will provide a brief breakdown of critical areas of vulnerability that low-income rural Californians deal with

after a disaster, including regarding housing law, public benefits, and employment, providing a few on-the-ground stories along the way.

### **Rural Attorney Deserts and Access to Justice: Disaster Exacerbates Preexisting Barriers to Representation and Assistance**

In California, there is roughly one legal aid attorney per 7,000 people at 125% of poverty, the level at which an individual is eligible for free legal aid.<sup>19</sup> People living in rural places face myriad legal issues – from threats of eviction to being victims of crime, including domestic violence. Low-income rural residents need assistance to navigate these civil legal issues. 75% of low-income rural households across the United States deal with some type of civil legal problem in a given year, a rate slightly higher than that of the general low-income population (71%).<sup>20</sup> These civil legal problems include issues around health (43%), consumer or finance (40%), or employment (25%).<sup>21</sup> 23% of rural households have six or more civil legal issues in a year.<sup>22</sup> The same person or family might face eviction, while also navigating mounting medical debt or an unjustified firing.<sup>23</sup>

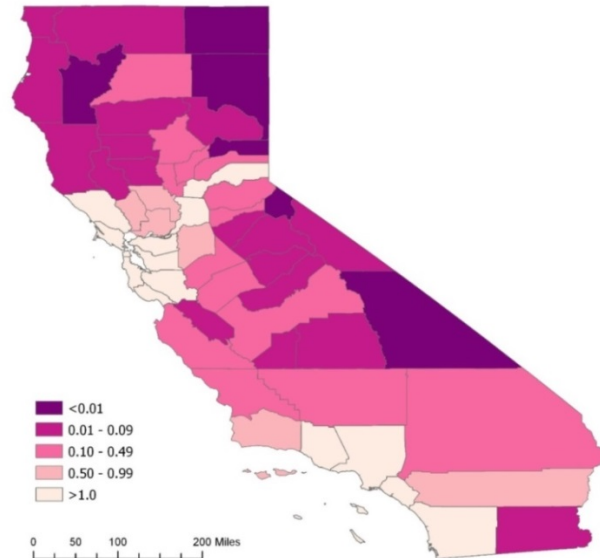
Legal problems accumulate and often remain un-redressed, aggravating people's economic precarity, and undermining their well-being. Just 22% of the civil legal problems that people in rural places face are issues for which people seek legal help.<sup>24</sup> Ultimately, 86% of these civil legal issues receive inadequate or no legal assistance, often because of an access-related challenge: 39% were not sure if the problem was legal or did not know where to look for help or resources to solve the issue.<sup>25</sup> Most low-income people facing legal issues do not utilize the legal system, even outside the context of a disaster.

First, the failure to obtain legal assistance in rural areas can be attributed in part to the shortage of attorneys, both non-profit (legal aid) and for-profit. Lawyers generally are scarce in rural areas, as illustrated in Map 3.<sup>26</sup> Just 2% of small law practices in the United States are located in rural places, even though about one-fifth of nation's population lives in a rural locale.<sup>27</sup> In California, around 3% of lawyers

are in rural parts of the state, which translates to a ratio of one attorney for every 626 people; in urban areas, this number is a much more robust 1:175.<sup>28</sup> Kings County, a high-poverty county in the agricultural Central Valley, has the poorest attorney to resident ratio in the state at 1:1,364.<sup>29</sup> On top of the cost of hiring a private attorney as well as the scarcity of attorneys generally, access might be further impaired because attorneys are unable to take on many disaster-related cases when doing so on a contingency is not profitable enough for private attorneys, thus deterring representation.

Second, just as too few attorneys generally practice in rural places, legal aid attorneys also are in short supply. This, at least in part, is due to inequitable funding schemas. Though three large sources of funding are distributed based on a formula making the per-person in poverty allocation the same (Legal Services Corporation grants, State Bar Interest On Lawyer Trust Account grants, and Equal Access Fund grants), the lower number of low-income people in rural counties mean there are far fewer dollars available for the infrastructure for brick and mortar offices. Additionally, the lack of foundation presence in rural communities means foundation dollars are concentrated in urban areas. Most importantly, a major source of both financial resources and pro bono resources for legal aid organizations – private attorneys – are concentrated in urban areas. Rural counties and mixed urban/rural counties do not have the pool of private attorney donors for financial support,<sup>30</sup> nor do they have the local attorneys to turn to when disaster strikes and there is an urgent need for pro bono help. These spatial and fiscal barriers to legal assistance are compounded when disaster hits, exacerbating existing inequity and poverty, and throwing into sharp relief the lack of access to legal assistance.

#### MAP 3: ATTORNEYS PER SQUARE MILE BY COUNTY



## **How Legal Aid Helps After a Disaster**

This section highlights specific ways in which legal aid attorneys assist low-income rural Californians after a disaster.

### Housing: Homeowners, Renters, and People Experiencing Homelessness

Legal aid helps homeowners and renters remain housed. Low-income rural renters have insufficient access to affordable housing even before a wildfire wipes out significant portions of existing housing stock, and they thus might at best end up in temporary FEMA trailers or at worst homeless, sheltered only by a tent.<sup>31</sup> After 2017's wildfires hit Sonoma County, median rent increased by 35% in the weeks after the fire was extinguished in Santa Rosa, where the fire destroyed 5% of the housing stock.<sup>32</sup> Six months out, 10,000 people were still displaced.<sup>33</sup> Homeless shelters in the area were already at capacity even before the fire, with the county's limited number of beds (1,200) filled.<sup>34</sup>

Rural California faces a severe need for affordable rental housing, and the problem is especially severe in some rural communities, such as in Tulare and Kern counties.<sup>35</sup> 36% of rural Californians are cost-burdened (which means 30% of their income goes to pay for housing).<sup>36</sup> Low-income residents in Monterey County's agricultural communities like Watsonville (57%) and Salinas (50%) struggle to afford housing.<sup>37</sup> The lack of rental housing intersects with economic justice issues like rural unemployment. Siskiyou County, in the far north, has a housing cost-burden rate of 30%, which is intertwined with the high poverty (23%) and an unemployment rate of 14%. Imperial County in the southeastern corner of California has a housing cost-burden rate of 25%, a poverty rate of 23%, and an unemployment rate of 18%.<sup>38</sup> Staying housed after a disaster can be particularly challenging due to the aftermath of damage and disruption, a situation aggravated by preexisting housing scarcity. In comparison, while urban San Francisco's cost-burden rate is around the same (38.3%),<sup>39</sup> it has a poverty rate of just 10%<sup>40</sup> and an unemployment rate of 2.2%.<sup>41</sup>

#### *i. Temporary Housing*

FEMA provides various kinds of assistance regarding housing, including Disaster Housing Assistance and FEMA Direct Housing.<sup>42</sup> FEMA Direct Housing includes Manufactured Housing Units (MHUs) and recreational vehicles (RVs) in the area where the disaster occurred.<sup>43</sup> While wealthier people might be able to afford a place to live or stay during the early days of recovery (especially if a wildfire still rages nearby), lower-income families are often stuck at an evacuation center or seeking housing assistance from FEMA, perhaps in the form of a trailer.<sup>44</sup>

The 2018 Camp Fire led to the evacuation of nearly 50,000 people, about 1,000 of whom stayed in evacuation and emergency shelters.<sup>45</sup> FEMA estimated that 2,000 households needed intermediate or long-term housing after the Camp Fire.<sup>46</sup> These populations in highly precarious housing need protection from legal aid providers to ensure their rights are not violated.



## *ii. Homeowners*

Homeowners, of course, are vulnerable to losing their homes to a disaster; whether those homes are lost to the disaster are vulnerable to a different culprit – foreclosure during recovery. Generally, a homeowner must continue to make mortgage payments through a disaster-and-recovery cycle.<sup>47</sup> Attorneys often are necessary to help victims navigate this process. Legal aid helps keep homeowners in their homes by defending against foreclosure.

Legal Services of Northern California (LSNC) assisted an elderly woman, living alone, who lost her home in the Carr fire. The woman, who had been negotiating a deed in lieu of foreclosure with her lender before the fire, was unable to keep paying her mortgage after the fire. She also was under-insured. The woman attempted to use her insurance settlement to pay arrears to the lender, but the lender refused. It took LSNC's expert advice and assistance to negotiate a deed in lieu of foreclosure on behalf of the client, thus easing her path on the long recovery process.

The legal aid community has also partnered with United Policyholders to support homeowners regarding insurance matters. United Policyholders offers a helpful "Claim Guidance Library" where policyholders can access information to equip them as they navigate the insurance claim settlement process.<sup>48</sup>

## *iii. Renters*

Most tenants in the United States – 90% – face the eviction process without representation.<sup>49</sup> The evictions process under California law is extremely swift, with 75% of cases resolved within 45 days and 60% within a month.<sup>50</sup> People with access to counsel can better navigate these systems and access justice. Compounding this, rural places in California tend not to have the sorts of tenant protections associated

with metropolitan areas, such as rent control or just cause ordinances.<sup>51</sup> Some rural locales in California have some of the highest eviction rates in the state.<sup>52</sup>

An attorney's assistance to navigate the eviction process is a huge help to a tenant and can dramatically alter outcomes. The Sargent Shriver Civil Council Act funds legal services for low-income people facing a variety of issues, including housing. Data gathered pursuant to that law indicate how critical legal aid can be in the context of eviction.<sup>53</sup> These data show that clients represented by an attorney are more likely to file an answer (91% versus 73% of those without representation); more likely to reach a settlement (70% of clients reached a settlement) and more likely to avoid trial (just 3% of clients with representation went to trial, compared to 14% of those without representation).<sup>54</sup> Fewer Shriver-represented clients had their cases end in default, just 8%, compared to 26% of those without representation).<sup>55</sup>

Finally, representation also provided other benefits that kept people housed, or helped them find new housing: Just 6% of those with an attorney were formally evicted, and 46% were permitted more time to find new housing with an adjusted move-out date.<sup>56</sup> A year after their representation 71% of clients were living in a new rental unit, compared to just 43% of those who were self-represented.<sup>57</sup> Further, 65% of Shriver-represented clients obtained a reduction in back-owed rent, if not a full waiver of it.<sup>58</sup> Shriver attorneys also were able to secure a neutral reference from the evicting landlord, seal the record of the eviction action, and prevent the case from being reported to credit agencies.<sup>59</sup>

Disasters make the eviction process even more challenging for low-income, rural Californians trying to stay housed. Legal aid can help ensure tenants have the legal tools necessary to defend unwarranted evictions. All renters have legally-enforceable rights during and after a disaster, but landlords nevertheless sometimes seek to unlawfully evict tenants. Habitability is another key issue given that disasters often may render units uninhabitable.<sup>60</sup> If a rental unit is completely destroyed or rendered uninhabitable (i.e. "red-tagged"), the renter does not need to pay rent and may not need to give notice to

the landlord.<sup>61</sup> Even if a renter wishes to remain in a red-tagged, severely damaged home, it can lead to eviction as well.

If a unit was damaged but not destroyed, and the renter wants to move, they still need to give the landlord a 30-day notice of the plan to vacate.<sup>62</sup> If the unit was substantially damaged, the renter can move out and not return (i.e. terminate the tenancy and not pay rent), even if they have a one-year lease.<sup>63</sup> If a unit was just materially damaged – as opposed to “substantially” – then the tenant first must let the landlord know about the needed repairs and allow the landlord a bit of time to perform the repairs, which must be completed within a reasonable amount of time.<sup>64</sup> If this does not happen, then the tenant can deduct some or all of the rent, and the tenant has the option to terminate the lease.<sup>65</sup>

A legal aid attorney is there to make sure tenants understand these complexities and their options following a disaster. From advising on tenants’ rights to providing form letters clients can give their landlords, legal aid offices help keep renters housed after a disaster. Whether a property is uninhabitable or not, landlords may take advantage of the disaster disruption to evict tenants. Legal Services of Northern California (LSNC) assisted a client following the 2015 Valley Fire who had a one-year lease on a house, which, while it was smoke damaged from the fire, remained habitable. The landlord told the client he had to leave the house, even though eight months remained on the lease. LSNC attorneys advised the tenant of his right to remain in the unit for the remainder of the lease. They also advised him to register for FEMA individual assistance, which he received. LSNC was able to help this client navigate eviction while also securing FEMA benefits.

The Ukiah LSNC office provided services to a substitute teacher who was evacuated for more than two weeks from the home she was renting after the Valley Fire. The home was uninhabitable, but the landlord nevertheless served the tenant with a 30-day eviction notice, which led the tenant to seek LSNC’s advice. LSNC provided the client with a form letter that informed the landlord of the tenant’s right to a 60-day

notice prior to eviction. This gave the tenant more time to find housing. LSNC thus help inform a client regarding California law, thus effectively enforcing that law and facilitating the client's stabilization following the fire.

A disaster can damage not just a house itself but also other necessities that make the housing habitable. LSNC also assisted a client whose water pipe was broken as a result of the 2015 Valley wildfire. Instead of repairing the water pipe, the landlord tried to get the client to sign a new contract that would have made the client responsible for getting her own water. In advising her not to sign this contract, LSNC informed the client of her right to a habitable rental property and assured her that the landlord was responsible for the property's habitability.

Those living in mobile-home parks can often be the most vulnerable to exploitative or illegal conduct. Mobile-home park residents have special needs recovering from a disaster. The park might be damaged or destroyed making their space and the common areas uninhabitable and their mobile-homes might be damaged or destroyed. Mobile-home owners often have title and registration difficulties and do not have documents demonstrating their ownership. This can lead to disputes with insurance carriers, if there is insurance coverage, or FEMA or other disaster assistance. California legal aid organizations help residents understand the rules and confront these complicated issues in the wake of disasters, including the fact that, if a fire destroys a mobile home park, the renters do not need to pay rent for 30 days if the park's Permit to Operate is suspended for more than 30 days.<sup>66</sup> The Carr Fire destroyed the Shasta County mobile home park where an elderly individual had been living, but the park owner sought payments from tenants to remove debris, rather than participating in the county's debris removal process. LSNC informed the client that he did not have to pay the park owner for debris removal, that the county would not hold the client responsible for it. LSNC further advised the client to seek FEMA as well as Small Business Assistance benefits, an avenue for relief of which he had not been aware.

*iv. Homelessness*

People can be forced from their homes and experience homelessness because of a disaster.<sup>67</sup> Some cannot find affordable housing after the place in which they have been living is destroyed, thus resulting in homelessness. When a disaster destroys rural housing – such as some 500 homes destroyed by the Butte fire in Calaveras and Amador counties in 2015, the nearly 5,000 homes the Tubbs fire destroyed in Sonoma and Napa counties in 2017, or the over 18,000 structures destroyed by the Camp Fire in 2018, rural, low-income Californians have few places to turn.<sup>68</sup>

CHART 1: WILDFIRE IMPACT – CAMP, CARR, AND TUBBS FIRES

	Camp	Carr	Tubbs
<b>Date</b>	November, 2018	July, 2018	October, 2017
<b>County</b>	Butte	Shasta & Trinity	Napa & Sonoma
<b>Acres</b>	153,336	229,651	36,807
<b>Structures</b>	18,804	1,604	36,807
<b>Deaths</b>	86	8	22

**Source:** California Department of Forestry and Fire-Protection.

Generally, rural homelessness is on the rise in places like El Dorado County, where the number of people experiencing homelessness has increased by 122% since 2015, or Alpine County, where this number has gone up by 128%.<sup>69</sup> Youth homelessness is also on the rise, having recently doubled in some places.<sup>70</sup> For instance, homelessness among Calaveras County public school children has reached 20%, increasing from 4.7% between 2014 and 2016.<sup>71</sup> This is – in part – because the wildfires pushed hundreds of people into homelessness there; by 2016, more than 1,124 kids in Calaveras alone had to make do, and stay in insecure places, such as motels, the outdoors, or in cars.<sup>72</sup> Rural communities do not have the large

budgets that cities like San Francisco do, which means that support services for people experiencing rural homelessness are spread thin.<sup>73</sup> El Dorado County, for example, has no year-round shelter.<sup>74</sup>

Legal Aid organizations play vital roles to ameliorate/mitigate rising homelessness following a disaster. For instance, Legal Aid of Sonoma was able to secure temporary housing support through FEMA for a client who was facing homelessness after FEMA, without notice, suspended a program that was enabling her to stay in a hotel. Legal Aid of Sonoma appealed, securing FEMA benefits for loss of personal property and temporary housing for the client. Legal Aid of Sonoma also placed the client on affordable housing lists, and one eventually accepted her. Legal Aid recognized that the client might be eligible for a support animal because of the traumatic effects of the disaster and connected her with a therapist in order to begin that process. They sent a letter to her landlord informing him that this animal would need to be permitted. This client was able to secure affordable housing and access an emotional support animal to ease her trauma rather than facing homelessness

#### Consumer Issues: Fraud, Identity Theft, Scams

People affected by disaster often become victims of crimes perpetrated by predatory companies and individuals looking to exploit their vulnerability.<sup>75</sup> Disaster survivors are particularly vulnerable to scams (e.g., those involving personal debts), price-gouging,<sup>76</sup> and fraud, and are targeted for such schemes. All of these implicate the law, and legal aid organizations are critical to helping vulnerable clients protect their rights..<sup>77</sup> Predatory companies could try to get a consumer to engage in a “debt settlement,” in which the consumer starts to pay the company rather than the creditors to whom the consumer actually owes a debt.<sup>78</sup> Companies engaging in the rebuilding effort may also try to defraud consumers, such as through home repair fraud.<sup>79</sup> Disaster victims may also fall prey to identity theft during and after a disaster because a consumer might be more likely to provide private information to anyone who asks for it, e.g., someone posing as a FEMA inspector, which can result in theft from the victim.<sup>80</sup>

Price-gouging, an increase in cost of a consumer good by more than 10% within 30 days of an emergency disaster declaration<sup>81</sup> is a significant issue facing consumers in the post-disaster landscape. Price-gouging for necessities, from housing to food to supplies, is illegal, in California.<sup>82</sup> Businesses that sell goods and services after a disaster nonetheless may try to take advantage of vulnerable survivors. The District Attorney's Office in Shasta County alone received 70 price-gouging complaints following the 2018 Carr Fire.<sup>83</sup> Complaints related to everyday items, like items purchased at convenience stores and hotel rooms.<sup>84</sup> Despite the high number of complaints, local legal aid programs consistently report that the District Attorneys do not prosecute most of the complaints for price-gouging.<sup>85</sup>

Legal aid helps consumer facing this array of issues, from identity theft, to repair fraud, to price-gouging. Following the October 2017 Redwood and Sulphur fires in Mendocino and Lake Counties, the LSNC office in Ukiah helped tenants by providing a form letter that they could give to their landlord if the landlord appeared to be violating price-gouging laws. This led to the withdrawal of unlawful rent increases.

Price-gouging issues can also intersect with housing issues. For example, one Legal Aid of Sonoma client whose house burned down due to a 2018 wildfire moved into a trailer under the pretense of a given rent amount. Upon moving in, however, the landlord said the rent amount was inadequate and attempted to increase the rent by 200%. The client came to Legal Aid of Sonoma for advice, informing the attorney that she was going to be homeless if she could not stay in the trailer with the agreed upon rent. Legal Aid of Sonoma sent a demand letter citing violations of law, and the landlord acquiesced, allowing the client stay in the trailer for the previously agreed amount. The client was better able to stabilize after the disaster than she would have been if she had been forced out due to the exorbitant price increase.

## Employment

Disasters can undermine employment for workers.<sup>86</sup> Legal aid attorneys help disaster survivors navigate a shifting employment landscape, addressing issues such as disaster unemployment insurance, unlawful termination, back-wages, leave from work, and health and safety violations.

After a disaster, an employer might refuse to pay the worker for work already completed, or even terminate the worker. Legal aid is there to enforce laws like the Fair Labor Standards Act (FLSA), the Family Medical Leave Act (FMLA), and the Occupational Safety and Health Act (OSHA).<sup>87</sup> These laws ensure that employers provide a healthy, safe working environment, particularly in a disaster area. They also provide time off under some circumstances. Employers might take advantage of employees, aggravating the precarious situation in which the disaster has already left the workers, without the advice and assistance of legal aid attorneys to protect workers.

Legal Aid of Sonoma assisted an independent contractor working for a larger company performing debris removal after a 2018 wildfire. The company with whom the worker contracted was failing to obey labor and safety laws while also withholding wages by failing to pay overtime. The worker was being exposed to an unhealthy working environment of ash, soot, and asbestos with non-existent or inadequate safety gear and illegal withholding of earned wages. Legal Aid of Sonoma filed a complaint with OSHA regarding the health and safety violations, and OSHA responded by ordering the company to ameliorate the dangers. Legal Aid of Sonoma filed a complaint to the labor board regarding the wage violations and, after extensive settlement negotiations, the contractor ultimately paid the client a sizeable settlement for the wages he was owed.

Migrant and seasonal farmworkers (MSFWs) are in an especially vulnerable position after a disaster because of the precarious nature of their employment and housing. Many preexisting issues that MSFWs face are exacerbated by disaster, from workplace safety and conditions (lack of access to face masks<sup>88</sup>) to



concerns about immigration status and eligibility for government programs to exploitative working conditions (fear of job loss). Farmworkers had to stay in the fields, performing their jobs in unhealthy, smoky conditions with inappropriate protective gear, such as a makeshift cloth instead of a proper facemask, after the 2018 Camp Fire.<sup>89</sup>

Access to legal assistance in navigating illegal housing and work conditions and disaster assistance is indispensable for workers who could be subject to exploitative and illegal conduct by their employers.

### Insurance

Many forms of insurance can be implicated during and after a natural disaster, including homeowners', renters', and car insurance, to name a few.<sup>90</sup> Sadly, low-income Californians trying to stabilize after a disaster often struggle to receive the proceeds they are due from their insurance policies. Legal aid organizations play a vital role in advocating for their clients around insurance. Legal Aid of Sonoma assisted a client as a result of a 2018 wildfire whose insurance provider argued that it did not have to compensate the client for her mobile home, which was in a mobile-home park identified by code enforcement as unsafe for occupancy. The utilities in the park were destroyed or rendered inoperable by the wildfire. Individuals living in mobile home parks are among the most vulnerable disaster survivors served by legal aid, because they often are elderly, living with disability, farmworkers and low-income. Legal Aid of Sonoma was able to secure substantial insurance proceeds for the client after extensive negotiations with the insurance provider. Legal aid representation helps keep these matters out of the courts, by being driven to resolve issues and advocate for clients, not go to court for profit.

### Public Benefits

Navigating access to public benefits like CalFresh (food stamps), CalWORKS or State Disability Insurance (SDI) can be difficult under the best of circumstances and it is particularly challenging and

vitaly important for those struggling to regain a semblance of stability in the wake of a disaster. Access to public benefits can make a tremendous difference in lives of low-income Californians after a disaster. Public benefits often intersect with other vulnerabilities that legal aid clients are experiencing, such as precarious housing. A client served by Legal Aid of Sonoma after the recent wildfires was living with a rare degenerative heart condition that made him unable to work. When his apartment complex burned down, he had nowhere to go but to live in a hotel temporarily and then in his car. He faced multiple, overlapping issues: He simultaneously lost his housing due to the fire, was unable to access both his insurance benefits and FEMA assistance, and his Social Security Disability Insurance (SSDI) was due to run out. Legal Aid of Sonoma was there to assist him in navigating these interrelated issues by obtaining FEMA benefits for temporary housing, reimbursement for paying for a hotel, insurance funds, and found him an SSDI attorney who obtained his federal disability insurance. This client faced the compounding issues that a disaster can cause at the interties of housing, insurance, and living with a disability and would not have been represented had it not been for legal aid.

#### Replacing Vital Records and Documents

Legal aid can help with replacing vital records and documents, such as driver's licenses or wills. People often do not have time to gather all vital records and documents, which may be lost in the damage. Replacing these records and documents will be an important part of recovery. This could include replacing lost or stolen ID cards as well as birth, death, marriage, and divorce certificates.<sup>91</sup> A legal aid client lost her home and personal possessions in the 2015 Valley wildfire. One of these items was her lawful permanent resident card. LSNC helped her with navigating this process by assisting her in completing and submitting the USCIS form for a replacement card. A seemingly small aspect of a disaster – losing an ID card – can have a big impact, and having legal aid there to assist with these small yet significant details help low-income folks stabilize after a disaster. LSNC has also operated “pop-up” mobile legal clinics that help people replace lost documents like wills and Driver's Licenses.

## FEMA

Legal services can also advise clients to file for FEMA assistance. Holding FEMA accountable during the recovery process is essential, as we know that eligibility for FEMA assistance can often be stratified based on income, as we saw in response to Hurricane Harvey in Texas, such that that low-income people are disproportionately denied eligibility for FEMA assistance.<sup>92</sup>

FEMA issues often intersect with other areas that legal aid offices help with, including housing and employment. At the intersection of employment, housing and FEMA, one individual – living with his two children in a cabin on a landowner’s ranch where he worked – whose home on the property was destroyed by a 2018 wildfire was informed by the property-owner that living there was not a formal part of his employment contract. The property-owner would not vouch for him that he had been living on the property when the disaster happened, so he could not access FEMA housing benefits. With nowhere else to go, no savings, and living paycheck-to-paycheck, he turned to Legal Aid of Sonoma for assistance. Legal Aid of Sonoma assisted him by collecting letters from co-workers, proving he had lived there, ultimately resulting in FEMA sending him a substantial amount of money for his property losses and additional funding for housing. This assistance was the difference between housing and homelessness, allowing him and his family to stabilize.

## **Conclusion and Recommendations**

Legal aid is a vital part of any disaster recovery process. Legal assistance to low-income Californians can help them to stabilize their lives by securing relief for clients who are facing illegal actions by landlords, scammers, and employers. Legal aid must have the funding and resources to provide wide-ranging services that protect low-income and vulnerable Californians after a disaster. These populations

disproportionately reside in rural areas and rural legal services programs aid in these areas serve critical needs and transforms lives.

Rural deficits in access to legal services are nothing new. The California Commission on Access to Justice (CCAJ) produced the 2010 report *Improving Civil Justice in Rural California* which spoke to barriers to civil justice in the state's rural reaches.<sup>93</sup> The report remains highly-relevant because little progress has been made in alleviating the problems identified. The report acknowledged the unique challenges regarding rural access to legal services, speaking to the “complex set of barriers” that impede the delivery of legal services for low-income rural Californians as well as the under-resourced state of these legal aid programs.<sup>94</sup> This sentiment remains incredibly accurate to this day.

Access to legal services is inequitable between urban and rural places. The problem persists, and thus the recommendations offered by the report touch on perennial themes that are particularly poignant. The report called for geographic equity (in terms of the amount and type of legal assistance available); increasing funding for rural legal services (expanding funding to rural services without undermining funding for urban services, which requires increasing funding to all programs); and developing minimum access guidelines (for allocating funding).<sup>95</sup>

First, in alignment with the CCAJ's comments at the beginning of the decade, we believe that increased – and more equitably distributed – funding to legal services programs ensures that low-income Californians struggling to recover after a disaster do not face a lack of legal services as yet another aspect of their struggle to regain equilibrium. LSNC was able to assist more than 1,200 people at the disaster recovery center, and have opened more than 250 cases for survivors. Legal aid must be a factor in all recovery efforts, providing direct legal services and assisting people in navigating myriad systems that can impede their ability to stabilize and recover in the wake of a disaster. This requires increased legal aid funding

overall, as well as more equitable distribution of funding to ensure that rural legal aid providers get the resources they need to provide critical services in the wake of disasters.

Second, the other key facet of increasing access to attorneys is a combination of Loan Repayment Assistance Programs (LRAP) along with financial incentives for lawyers to practice in rural communities. LRAP is an essential feature of building a more robust system of legal access for low-income rural individuals because it enables lawyers who might not otherwise be able to afford to work in legal aid on behalf of low-income clients. Providing financial incentives also can attract lawyers to work in underserved parts of the state where they would not otherwise consider working or living. Attorneys who respond quickly to disasters are those who already work in the communities impacted by disasters. If programs had to wait to secure funding and then hire, there would be a significant delay in services. Therefore, there is a need to have attorneys on the ground before a disaster.

Disaster strikes with impartiality, but recovery can be dramatically uneven. Poor Californians often are left behind to piece their lives back together without the resources available to more affluent folks. Rural residents face many civil legal issues, without legal assistance,<sup>96</sup> due in part to a scarcity of lawyers and funding,<sup>97</sup> thus ensuring that low-income residents in rural places facing the consequences of a disaster already are structurally disadvantaged. Civil legal aid issues like public benefits, affordable housing, and consumer issues already have a differential impact in vulnerable communities, so an inclusive and accessible recovery process, seeking to ensure that all segments of the community have what they need, must include legal aid.

Legal issues are everyday issues, from staying housed and employed to being able to seek redress as a victim of crime and legal services programs are key components of everyday and extraordinary recovery efforts for all rural residents – including low-income Californians, along with especially vulnerable populations like seniors and people with disabilities. Rural legal services programs are the

only advocates in a position to provide the resources, advice, and support the community needs in order to stabilize and move forward. This is access to justice,<sup>98</sup> bridging the justice gap,<sup>99</sup> and removing barriers to justice. Ensuring access to quality, free legal services builds a system of inclusion and accessibility to legal services for the most vulnerable communities, an especially urgent and critical mission following a disaster.

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<sup>1</sup> FEMA, *Disaster Declarations by Year*, [https://www.fema.gov/disasters/year/2018?field\\_dv2\\_declaration\\_type\\_value=All](https://www.fema.gov/disasters/year/2018?field_dv2_declaration_type_value=All); Akira Olivia Kumamoto, Hector Amezcua & Ryan Sabalow, *California wildfires start in the woods. Why do cities keep burning?*, THE SAC. BEE (Nov. 10, 2018), <https://www.sacbee.com/news/state/california/fires/article221385910.html>.

<sup>2</sup> Ideally, this policy brief would solely provide data by “Medical Service Study Area” (MSSAs) as we do in the section on “attorney deserts” because the MSSA model serves as an important analytical tool for understanding California’s geographical poverty, providing more nuance than a simple county versus county analysis, instead dividing the state into “urban” (75,000 to 125,000 residents), “rural” (50,000 or fewer residents), and “frontier” locales (fewer than 11 residents per square mile). See *Medical Service Study Areas*, State of California: Office of State Health Planning & Dev., <https://oshpd.ca.gov/MSSA/>. However, due to current data limitations, some data we rely on is on the county level, but we note here that this data is limited by the fact that many ostensibly “rural” counties can have an “urban” area within them and vice versa, thus complicating a county-level analysis of poverty and access to legal services. *Eviction Lab*, PRINCETON, <https://evictionlab.org/map/#/2016?geography=counties&bounds=-126.751,32.636,-109.334,39.727&type=er&locations=06047,-120.637,37.226%2B06019,-119.443,36.916>.

<sup>3</sup> Gwendolyn Wu, *California Wildfires: Top 10 deadliest, most destructive fires in state history*, SF CHRON. (Nov. 12, 2018), <https://www.sfchronicle.com/california-wildfires/article/California-Wildfires-Top-10-deadliest-most-13385364.php>; Tara Law, *Why Officials Miscounted the Victims of the Camp Fire – and Why Some Victims Have Still Not Been Identified*, TIME (Dec. 6, 2018), <http://time.com/5471283/camp-fire-victims-death-toll-recovery/>; FEMA, *Disaster Declarations by Year*,

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<sup>4</sup> Phil Haigh, *Where are the California Fires? Map Areas Affected by the Carr Fire in Redding and Elsewhere*, METRO (July 30, 2018), <https://metro.co.uk/2018/07/30/california-fires-map-areas-affected-carr-fire-redding-elsewhere-7775750/>.

<sup>5</sup> Dale Kasler, *Valley, Butte Fires Among Costliest Ever at \$2 Billion in Damages*, SAC BEE (Oct. 14, 2015), <https://www.sacbee.com/news/state/california/fires/article39167664.html>.

<sup>6</sup> Manny Fernandez, *A Year After Hurricane Harvey, Houston’s Poorest Neighborhoods Are Slowest to Recover*, N.Y. TIMES (Sept. 3, 2018), <https://www.nytimes.com/2018/09/03/us/hurricane-harvey-houston.html>.

<sup>7</sup> LSC, *The Justice Gap* 48, 2018, <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

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<sup>8</sup> Sam Harnett, 'Humbled to Ask for Help'—Low-Income Communities Struggle to Recover After a Wildfire, NPR (Sept. 19, 2018), <https://www.npr.org/2018/09/19/647606049/humbled-to-ask-for-help-low-income-communities-struggle-to-recover-after-a-wildfire>.

<sup>9</sup> Sam Harnett, *String of Fires in Northern California May Worsen Poverty for Years to Come*, KQED (Sept. 7, 2018), <https://www.kqed.org/news/11691065/string-of-fires-in-northern-california-may-worsen-poverty-for-years-to-come>.

<sup>10</sup> Leah Blatt Boustan et al., *New Data Set Explores 90 Years of Natural Disasters in the US*, THE CONVERSATION (Jun 28, 2017), <https://theconversation.com/new-data-set-explores-90-years-of-natural-disasters-in-the-us-78382?sa=pg2&sq=natural+disasters&sr=1>.

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<sup>21</sup> LSC, *The Justice Gap* 6, 48, 2018, <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

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<sup>24</sup> LSC, *The Justice Gap* 6, 48, 2018, <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

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