

**STATE OF VERMONT
VERMONT SUPREME COURT
AUGUST TERM, 2023**

Emergency Order Promulgating Administrative Order No. 54

PROVISION OF LEGAL SERVICES FOLLOWING FLOOD EMERGENCY

Pursuant to the Vermont Constitution, Chapter II, § 30, and 4 V.S.A. § 901, it is hereby ordered:

1. That Administrative Order No. 54 be promulgated to read as follows:

§ 1. Supreme Court Administrative Order 41 is hereby waived as may be necessary to authorize, upon request, practice under a Limited Emergency Pro Bono Law License to any lawyer admitted to the Bar of the Vermont Supreme Court who holds an inactive Vermont law license and who is not the subject of formal disciplinary proceedings, disbarred, suspended from practice, or otherwise restricted from practice in Vermont or any other jurisdiction.

§ 2. The Rules of Admission to the Bar of the Supreme Court and Supreme Court Administrative Order 41 are hereby waived as may be necessary to authorize, upon request, practice under a Limited Emergency Pro Bono Law License to any lawyer admitted to the practice of law in another United States jurisdiction who is not the subject of formal disciplinary proceedings, disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction.

§ 3. A lawyer practicing under a Limited Emergency Pro Bono Law License is authorized to provide legal services solely for matters directly related to the Flood Emergency. Those legal services must be provided pro bono, without compensation, expectation of compensation, or other direct pecuniary gain to the lawyer. Those legal services must be coordinated through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically designated by the Vermont Supreme Court.

§ 4. A lawyer practicing under a Limited Emergency Pro Bono Law License is not authorized to represent a client in court, except:

- a. a lawyer with an inactive Vermont law license may represent a client in court after filing with their notice of an appearance an affidavit stating that the lawyer has received authorization to practice pursuant to a Limited Emergency Pro Bono Law License; and
- b. an out-of-state lawyer with a Limited Emergency Pro Bono Law License may represent a client in court if the lawyer is admitted pro hac vice pursuant to § 16 of Administrative Order 41. When an out-of-state lawyer with a Limited Emergency Pro Bono Law License applies for pro hac vice admission, the application fee is waived.

§ 5. A lawyer is subject to the Vermont Rules of Professional Conduct and the disciplinary jurisdiction of the Vermont Supreme Court when requesting a Limited Emergency Pro Bono Law License, as well as when practicing under a Limited Emergency Pro Bono Law License. However, a lawyer practicing under a valid Limited Emergency Pro Bono Law License does not engage in the unauthorized practice of law or violate Rule 5.5 of the Vermont Rules of Professional Conduct.

§ 6. The authority to provide legal services under a Limited Emergency Pro Bono Law License will end when this Court declares that the Flood Emergency has either ended or abated to such an extent that relaxation of the Rules of Admission to the Bar of the Supreme Court and Supreme Court Administrative Order 41 is no longer required. However, a lawyer then providing emergency legal services under a Limited Emergency Pro Bono Law License is authorized to continue to provide those services until the representation ends or for ninety days after the declared end of the emergency condition, whichever occurs first.

§ 7. The State Court Administrator shall issue instructions and guidance in furtherance of this order.

Reporter's Notes

This administrative order is made in response to the catastrophic flooding that occurred in Vermont in July 2023. On Sunday, July 9, 2023, the Governor of Vermont issued Executive Order 03-23, Declaration of State of Emergency, Guard Call-Out and Activation of Emergency Operations Plan for the State of Vermont in Response to Anticipated Storm-Related Damage, declaring a state of emergency (“Flood Emergency”) for the State of Vermont in response to the July 2023 severe storm. On July 10, 2023, the President declared that an emergency exists in the State of Vermont; and the Governor, in consultation with FEMA, requested a Presidential Declaration of a Major Disaster for the period July 7, 2023 and continuing; and on July 14, 2023 the President issued a Major Disaster Declaration based on flooding beginning on July 7, 2023, and continuing. The scope and severity of the Flood Emergency may exceed that of Hurricane Irene in 2011 and those affected by the Flood Emergency require legal services to navigate the response and recovery efforts. This administrative order provides additional flexibility regarding attorney licensing in order to meet the demand for legal services related to the Flood Emergency.

Under § 1, lawyers holding an inactive Vermont law license and not subject to disciplinary proceedings, disbarment, suspension, or other restriction, may practice under a limited emergency pro bono law license. Section 2 similarly allows lawyers admitted in other states to provide services. Section 3 specifies that the legal services must be solely for matters related to the Flood Emergency and be without any compensation. If a lawyer providing these limited services seeks to

represent a client in court, an inactive lawyer must submit an affidavit along with a notice of appearance and an out-of-state lawyer must obtain a pro hac vice license. Lawyers remain subject to professional conduct rules and must following all procedural rules, including the Vermont Rules for Electronic Filing.

- 2. That this Order be effective on August 9, 2023. The Reporter’s Notes are advisory.
- 3. That this Order must be promulgated without resort to the notice and comment procedures set forth in Administrative Order No. 11 since the need for legal services is immediate.
- 4. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 7th day of August, 2023.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice