



Wendy Huff Ellard

Shareholder

Jackson | 601.969.4681 | wellard@bakerdonelson.com

Wendy Huff Ellard is the co-leader of the Firm's Disaster Recovery and Government Services Team and maintains a national regulatory practice focused on disaster recovery, government contracting and public policy.

Ms. Ellard maintains a national regulatory practice focused on disaster recovery, government contracting and public policy. She has extensive experience with the intricacies of the Robert T. Stafford Disaster Recovery and Emergency Assistance Act and regularly represents public and not-for-profit entities, contractors and industry associations to support grant eligibility and federal procurement compliance.

Ms. Ellard has devoted more than 16 years almost exclusively to assisting clients with the legal and policy issues associated with disaster response and recovery. During this time, she has represented varying stakeholders and gained insight from different perspectives. Her unique knowledge and awareness of prior policy applications and interpretations applicable to the recovery process contributes to the effective, efficient approach she brings to her practice.

Appeals under FEMA's Public Assistance Program

Ms. Ellard focuses a large part of her time on the various forms of dispute resolution available under FEMA's Public Assistance and Hazard Mitigation Programs with a heavy focus on appeals pursuant to 44 CFR § 206.206. Since 2007, Ms. Ellard has served in the state of Mississippi by providing regulatory and policy advice to aid the FEMA recipient/grantee in its administration of more than \$3 billion in federal disaster aid, including the preparation and submission of responses to more than 300 administrative appeals. She now also represents public and private non-profit subrecipients/applicants throughout the country in navigation of the complex federal and state regulatory frameworks to help those entities obtain and maintain federal funding.

Arbitration before the Civilian Board of Contract Appeals

She has also supported numerous applicants through the arbitration process established at 44 C.F.R. § 206.209 for Hurricanes Katrina and Rita, representing the recipient in over 30 of these actions before the Civilian Board of Contract Appeals. Since Congress amended the Stafford Act in 2018 to establish a separate arbitration process for events declared January 1, 2016 and forward, Ms. Ellard has represented applicants in nearly 40 of these actions, including successfully defending numerous motions filed by FEMA and counsel of clients from initial appeal, to filings, to hearing and implementation of the eventual decision. Her many years before the Board and insight gained across participation in over 70 of these actions makes her a unique and highly effective advocate.

Support of Electric Cooperatives and Utilities

Ms. Ellard also devotes a significant amount of time to representation of public power entities and rural electric cooperatives, including on issues regarding proper procurement for federally funded projects, legal responsibility requirements and work/costs eligibility. She has prepared procurement templates and systems, as well as FEMA specific guidance documents for individual entities and statewide and national associations.

COVID-19 Pandemic - Support of the Health Care Industry

Since the beginning of the COVID-19 Pandemic in January 2020, Ms. Ellard has used her years of experience with FEMA's programs and the federal grants system, combined with her prior service to the Firm's Health law Group, to support numerous health care systems, long term care entities, and hospitals who are navigating the response and recovery related to this unprecedented event. She has assisted over 40 hospitals and health systems with issues related to FEMA's funding programs, coordination of response efforts, and proper use of federal funding provided under various other resources implemented as a result of this event. She has assisted clients with coordinating multiple resources including but not limited to FEMA's programs, the Provider Relief Fund, and numerous programs developed by state and local governmental entities and funded by either the Coronavirus Relief Fund or State and Local Fiscal Recovery Funds.

Representative Matters

- Represented large city in Florida in successful arbitration before the Civilian Board of Contract Appeals, including presentation of multiple expert pavement and road construction witnesses during virtual hearing.
- Represented Colorado county impacted by wildfires in an arbitration before the Civilian Board of Contract Appeals, including successfully defending against FEMA's Motion to Dismiss due to the recipient's alleged untimely transmittal of the underlying appeal and full award of all costs claimed for identification of removal of hazardous trees along private roads.
- Assisted a private non-profit client with negotiation of settlement of claims based on alleged negligence of a private utility as a contributing party to ignition of a large wildfire also declared a major disaster under FEMA's Public Assistance Program, including coordination with FEMA to support compliance with duplication of benefits principles applicable to client's concurrent Public Assistance claims.
- Favorably settled an arbitration before the Civilian Board of Contract Appeals regarding additional time extension/extension of the period of performance needed to complete eligible beach restoration work following Hurricane Matthew.
- Represented a Texas city in a request for arbitration before the Civilian Board of Contract Appeals, based on the city's \$10 million claim for federal funding to restore its damaged water line following Hurricane Harvey. Obtained a ruling that the administrative appeal was timely, the city had maintained its water line and the damages were eligible for funding pursuant to FEMA's eligibility requirements, and directing the parties to coordinate on the amount of funding owed to the city.
- Won a ruling on behalf of a water management district in a trial before the CBCA to obtain eligibility from FEMA for its aged dam and spillway.
- Represented a Florida publicly owned hospital in an arbitration before the Civilian Board of Contract Appeals, where the assigned panel determined "FEMA [had] provided no basis in fact or law for finding the applicant's appeal untimely" and directed FEMA to consider the hospital appeal on the merits.
- Represented a small municipality in South Florida before the Civilian Board of Contract Appeals in a successful challenge of FEMA's stringent views on the documentation required to support the removal of hazardous debris.
- Represented a Florida electric cooperative in recovering more than \$3.5 million in previously denied FEMA Public Assistance before the Civilian Board of Contract Appeals.
- Prepared a comprehensive FEMA Procurement Toolkit for a municipal electric utility membership association, including a procurement policy template, written standards of conduct, and various checklists to promote compliance with FEMA procurement requirements among member utilities.
- Represented a North Carolina private nonprofit drainage association before the Civilian Board of Contract Appeals in a proceeding that resulted in the recovery of more than \$3 million in previously denied FEMA Public Assistance funding.

- Aided a state emergency management agency in recovering more than \$11 million in previously denied FEMA Public Assistance before the Civilian Board of Contract Appeals.
- Worked alongside a heavily impacted Alabama electric cooperative in immediate post-disaster response, including support of rapid deployment of multiple base camps and supporting infrastructure. Assisted with solicitation of and contracting with multiple right-of-way, power restoration, and debris vendors using non-competitive emergency contracting to support critical response efforts.
- Represented a United States territory's power authority in an arbitration filed after the Federal Emergency Management Agency (FEMA) denied its request for \$58 million to fund power generators. Successfully negotiated an arbitration agreement for the full \$58 million.
- Prepared and administered emergency purchase orders, requests for proposals, contracts, procurement policies, and written standards of conduct for compliance with FEMA procurement regulations.
- Prepared and implemented a joint procurement model for a large generation and transmission electric cooperative and its members in two states, including management of the solicitation, evaluation, and contracting process.
- Oversaw immediate post-disaster recovery efforts for a large local government entity, including support of emergency contracting, damage assessments, and coordination of initial FEMA and state meetings.
- Prepared procurement-compliance checklists and memoranda for various government entities to facilitate compliance with FEMA procurement regulations in advance of a disaster that requires work eligible for federal Public Assistance funding.
- Prepared and presented a three-part training series for a state-wide electric cooperative association, including focus modules on mutual aid, procurement compliance, emergency work, and documentation requirements to support FEMA reimbursement.
- Represented a general aviation airport in arbitration before the Civilian Board of Contract Appeals in an appeal of FEMA's denial of a request for funding a flood mitigation proposal under FEMA's Section 406 Hazard Mitigation Program, a matter that required extensive briefing and a three-day arbitration hearing during which more than a dozen witnesses were examined.
- Represented a large metropolitan government entity in the administrative appeal process under FEMA's Public Assistance Program, successfully securing approval of more than \$2 million based on reasonableness of equipment cost and emergency need for access to public safety vehicles.
- Successfully represented a Colorado county against FEMA in an arbitration regarding hazardous tree work.
- Represented a performing arts venue in pursuing funding from the Federal Emergency Management Agency (FEMA) for mitigation costs incurred following a major hurricane. Obtained a favorable decision from the Civilian Board of Contract Appeals, which awarded mitigation funding to the venue under Section 406 of the Stafford Act.
- Represented a Florida school board in an arbitration before the Civilian Board of Contract Appeals seeking reimbursement for repairs to a school. The panel determined that the school board was entitled to all requested funding.



Professional Honors & Activities

- AV[®] Preeminent[™] Peer Review Rated by Martindale-Hubbell
- Named a Mid-South Rising Star by *Mid-South Super Lawyers* (2015 – 2020)
- Named a Top 10 Finalist in *Mississippi Business Journal's* "Top 50 Under 40" (2018)
- Named as one of *Portico Magazine's* "Top 10 Attorneys in Mississippi" (Class of 2018)
- Named as one of *Mississippi Business Journal's* 50 Leading Business Women in Mississippi (2017)
- Mississippi Bar Association
 - Young Lawyers Division

- Disaster Legal Assistance Committee Director (2012 – 2013); Committee Member and County Coordinator (2011 – 2012)
- Mississippi Bar Leadership Forum (2013)
- American Bar Association
 - Member – Standing Committee on Disaster Response and Preparedness (2015 – 2018)
 - Young Lawyers Division
 - Selected as an "On the Rise - Top 40 Young Lawyer" (2017)
 - Received the "Star of the Quarter" award (2016)
 - Liaison to the Standing Committee on Disaster Response and Preparedness (2014 – 2015), (2015 – 2018)
 - Vice Director to the Disaster Legal Assistance Team (2014 – 2017)
 - Vice Chair to the Committee on Dispute Resolutions (2013 – 2014)
 - Member – Commission on Women in the Profession
 - Member – Forum on the Construction Industry
- Capital Area Bar Association
 - Recipient – Outstanding Service Award (2016)
 - Chair of Women's Initiative (2014 – 2016)
- Mississippi Women Lawyers Association
 - President (2016 – 2017)
 - Vice President/President-Elect (2015 – 2016)
 - Treasurer (2013 – 2014), (2014 – 2015)
 - Board of Directors (2012 – 2018)
 - Founding Member – Susan G. Komen Breast Cancer Foundation Initiative
 - Member – Day of Leadership Committee (2011 – 2012)
- National Emergency Management Association
 - Member – Focus Group for Private Sector Committee; assisted with preliminary comments to Federal Emergency Management Agency's white paper, "Procurement Challenges in Private Industry During Disasters" (July 2014)
- Recipient – Judge Charles Pickering Pro Bono Attorney of the Year Award, Baker Donelson, Jackson (2018)
- Recipient – The Lewis Donelson Public Service Award, Baker Donelson, Jackson (2016)



Civic Activities

- Member – Advisory Board of the Mississippi Center for Violence Prevention



Publications

- "FEMA Funding Decisions to Get New Scrutiny in Post-Chevron Era," *Bloomberg Law* (August 2024)
- "After Chevron: Piercing FEMA Authority Is Not Insurmountable," *Law360* (July 2024)
- "2024 Hurricane Season: Top Ten Tips," republished in *Texas Lawyer* (July 2024)
- "Supreme Court Overturns *Chevron* Deference: What's Next for FEMA?" (July 2024)
- "Impending Supreme Court Ruling on *Chevron* Deference: Impact on FEMA Dispute Resolution" (June 2024)
- "Don't Take FEMA Closeout Deobligations Lying Down," republished October 4, 2023, in *Daily Business Review* (September 2023)
- "Inconsistency Between FEMA's Appeal Policy and Appeal Regulations Proves Fatal to Appeal – and How to Avoid a Similar Fate " (July 2023)
- "Hurricane Ian: Declaration Updates – Applying for FEMA Public Assistance" (October 2022)
- "Filing a FEMA Public Assistance Appeal: The Real-Life Saga of Goldilocks and the Three Bears" (October 2022)

- "Are You BRIC-ready?" (October 2022)
- "COVID-19 PANDEMIC: Extension of PHE and Impact to FEMA Claims" (October 2022)
- "New FEMA Clarification Regarding Codes & Standards Requirements" (October 2022)
- "Hurricane Ian: Preparing for Public Assistance," republished in the *Daily Business Review* (September 2022)
- "DEADLINE TODAY: FEMA Produces First Substantive Proposed Approach on Duplication of Benefits for Hospitals " (September 2022)
- "Tips for Obtaining Reimbursement from FEMA for Your Disaster-Damaged Roof" (September 2022)
- "BREAKING: FEMA Sets Deadlines Applicable to Pandemic Claims" (April 2022)
- "FEMA Funding: Two Wildfire Case Studies and How to Mitigate Your Funding Risks and Your System," *NRECA Legal Reporting Service*, Volume 58, No. 1 (January 2022)
- "Contracting Under Federal Procurement Requirements After Hurricane Ida" (September 2021)
- "Top Ten Louisiana Tips for Hurricane Ida Recovery" (September 2021)
- "Hurricane Ida: Major Disaster Declaration Issued for Louisiana, Recovery Efforts Underway" (September 2021)
- "FEMA: Extension of Full Federal Funding for Pandemic Costs; Expansion Coming for "Safe Opening and Operation" Policy" (August 2021)
- "Baker's Dozen: Honoring Moms Everywhere," *Women's Initiative Newsletter* (May 2021)
- "BREAKING: Treasury Releases Guidance for Coronavirus State and Local Fiscal Recovery Fund" (May 2021)
- "American Rescue Plan: Treasury Coronavirus State and Local Fiscal Recovery Fund" (May 2021)
- "FEMA Seeks Public Comments on Future Program Delivery by June 21" (April 2021)
- "BREAKING: SBA Now Advises Shuttered Venue Operator Grant to Re-Open Monday, April 26" (April 2021)
- "FEMA Fact Sheet: Audit-Related Guidance for Entities Receiving FEMA Public Assistance Funds" (April 2021)
- "American Rescue Plan: OMB Memo Gives Insight into Oversight and Compliance Requirements Applicable to Funds" (March 2021)
- "Treasury Releases Information on New Emergency Rental Assistance Program: Opt-in by January 12 Deadline" (January 2021)
- "New Grant Opportunity for Venue Operators Impacted by the Pandemic," republished in *New Orleans CityBusiness* (January 2021)
- "FEMA Seeks Comment on Proposed Change to Disaster Declaration Criteria " (January 2021)
- "CBCA 6822-FEMA; In the Matter of FLORIDA KEYS ELECTRIC COOPERATIVE Emergency Procurement; Reasonable Costs " (December 2020)
- "CBCA Panel Denies Florida Utility's Arbitration Request" (October 2020)
- "CARES Act Coronavirus Relief Fund Compliance: Enter the OIG" (July 13, 2020)
- "CORONAVIRUS: Recent Policy and Guidance Updates on FEMA Public Assistance" (June 29, 2020)
- "New FEMA Guidance on Eligible Medical Care Costs and Alternate Care Sites" (May 13, 2020)
- "FEMA Releases "Streamlined" Project Application in 33-Page Guidance Document" (April 27, 2020)
- "FEMA Extends Filing Deadlines Due to COVID-19 Pandemic" (April 1, 2020)
- "Diligence Tips For Potential Disaster Relief Fund Recipients," *Law360* (March 2020)
- "New Ethics Opinion Offers Timely Reminder of Lawyers' Duties After Disasters," *ABA Journal* (December 2018)
- *Homeland Security and Emergency Management: A Legal Guide for State and Local Governments*, co-author of chapter, "Catastrophic Events, the Law, and Federalism" (ABA Press: 3rd edition 2018)
- "Grit, The Secret to Advancement: Stories of Successful Women Lawyers," American Bar Association, Chapter 3, Linda A. Klein (July 2017)
- Featured – "Parental Leave for Moms AND Dads," *Mississippi Business Journal* (June 2017)

- "Navigating FEMA Public Assistance for Disasters, A Guidebook for Public Power Utilities," *American Public Power Association* (2015)
- Co-author – "The Young Lawyers Guide to Preparing for Mediation, New Issues Regarding Neutral Disclosure and the Use of Technology in ADR, and ADR Rule Changes," with K. Greenberg and B. Schwartz, American Bar Association Annual Meeting, ADR Roundtable, Boston, Massachusetts (August 2014)
- Contributing Editor – "Flood Insurance and Climate Change: Rising Sea Levels Challenge the NFIP," *Fordham Environmental Law Review*, Volume XXVI, Symposium 2014, No. 1 (2014)



Speaking Engagements

- "FEMA Update: What You Can (and Should) Do Now to Support Recovery," Alabama Rural Electric Association of Cooperatives, Business Administration Conference (August 2024)
- "Overturn of Chevron Deference and What it Could Mean for Disaster Recovery," International Association of Emergency Managers (IAEM), Cost Recovery Caucus (July 2024)
- "Disaster Recovery, Mitigation, & Resilience: Untangling the Bureaucracy to Maximize Results," 2024 Mississippi Municipal League Conference (June 2024)
- "Uniform Federal Grants Update," 2024 State Government Lawyers CLE (June 2024)
- "2024 Update: Obtaining and Keeping Your FEMA Reimbursement," Alabama Rural Electric Association (February 2024)
- "Appeals and Arbitration Process Training," Florida Emergency Preparedness Association Annual Meeting (January 2024)
- "Basics and Best Practices to Navigate FEMA's Appeal and Arbitration Processes," National Hurricane Conference (April 2023)
- Moderator – "Preparing for and Recovery From Extreme Events: Best Practices and Lessons Learned," 2022 Baker Donelson Long Term Care Symposium (November 2022)
- "FEMA Update: Obtaining and Keeping Your FEMA Reimbursement," Florida Electric Cooperative Association, Human Resource/Finance & Accounting Conference (November 2022)
- "FEMA Compliance and Disaster Recovery," Florida School Board Attorneys Association (November 2022)
- "Compliance with Federal Funding Requirements," Puerto Rico Hospital Association (September 2022)
- "FEMA FUNDING PROGRAMS: Top Issues and How to Deal With Disputes," Alabama Rural Electric Association (June 2022)
- "FKEC's Experience with the Civilian Board of Contract Appeals," National Rural Electric Cooperative Association, TechAdvantage Experience (March 2022)
- "Anticipating and Responding to the Threat of Catastrophic Wildfires," National Rural Electric Cooperative Association G&T Legal Seminar (November 2021)
- "Be Prepared When Natural Disaster Strikes: Navigating the FEMA Public Assistance Program," 90th Annual Mississippi Municipal League Conference (July 2021)
- "Preparing for Hurricane Season: Updates to FEMA's Program and Procurement Rules," Florida Electric Cooperatives Association (June 2021)
- Moderator – "COVID-19: A Multi-Perspective Review with Key Insights on the Year Ahead," ABA Section of Administrative Law Spring CLE Conference, Homeland Security Law Institute (May 2021)
- "IAEM Disaster Cost Recovery & Finance Caucus COVID 19 Cost Recovery Webinar" (April 3, 2020)
- "COVID 19 Cost Recovery," International Association of Emergency Managers (IAEM) Disaster Cost Recovery & Finance Caucus Webinar (April 1, 2020)
- "Engineering a More Compliant Recovery," Florida Electric Cooperatives Association, Engineers Conference (June 2019)
- "Disaster Response Planning: It's Not Just for Florida," 45th ABA National Conference on Professional Responsibility, Vancouver, Canada (May 2019)

- "FEMA Procurement Update: Recent Issues for Cooperatives," Electric Power Associations of Mississippi, Ridgeland, Mississippi (October 2018)
- "Looking Forward: FEMA Flood and Disaster Programs React to Increasing Disaster Costs and Budget Pressure," International Municipal Lawyers Association (IMLA) 83rd Annual Conference, Houston, Texas (October 2018)
- "FEMA Procurement Requirements: What's New and What Do You Need to Do to Comply?," Tax, Finance & Accounting Conference for Cooperatives (August 2018)
- "Post-Disaster Assistance from FEMA: the Basics, the Audits, and the Compliance Risks," Tennessee Municipal Attorneys Association, Knoxville, Tennessee (June 2018)
- "The Disaster Roadmap: Leveraging Funding and Best Practices," American Bar Association (December 2017)
- "Hurricane Recovery: Federal Procurement Guidelines," City of Houston Department of Public Works and Engineering, Houston, Texas (November 2017)
- "How New FEMA Changes Impact Public Power," American Public Power Association Legal & Regulatory Conference, New Orleans, Louisiana (October 2017)
- "FEMA Procurement: Recent Issues for Cooperatives," Electric Power Associations of Mississippi, Purchasing Section Meeting, Ridgeland, Mississippi (October 2017)
- "FEMA Templates & Documents Procurement Workshop," Oklahoma Association of Electric Cooperatives (April 2017)
- "How New FEMA Changes Impact Your Co-Op," Texas Electric Cooperative 44th Annual Managers Conference (December 2016)
- "Procurement under FEMA's PA Program: Standards of Conduct and Prohibitions re Gifting," Nebraska Rural Electric Association Legal Seminar, Lincoln, Nebraska (September 2016)
- "Understanding Procurement Rules Under the FEMA Public Assistance Program," Florida Municipal Electric Association's Hurricane and Emergency Preparedness Forum & Roundtable (June 2016)
- Host/Presenter – "Women's Empowerment, A Project for Turkey," U.S. Department of State, Bureau of Educational and Cultural Affairs, International Visitor Leadership Program (June 2016)
- Moderator – "The Courage to Lead...In the Courtroom," Mississippi Women Lawyers' Association Eighth Annual Day of Leadership, "Empowering Women with Strength of Unity and the Courage to Lead," Jackson, Mississippi (May 2016)
- "Protecting Public Power Utilities' Eligibility for FEMA Assistance," American Public Power Association (July 2015)
- "In the Eye of the Storm: Disaster Response and Resilience," American Bar Association, Forum on the Construction Industry, Annual Fall Meeting, Chicago, Illinois (October 2014)
- Panelist – "Reducing Vulnerability and Increasing Resilience," Fordham Environmental Law Review Symposium: Eye of the Storm - Hurricane Sandy Response and Rebuilding Strategies Through the Lens of Environmental Justice, New York, New York (February 2014)
- "Rebuilding a School System After a Natural Disaster: Lessons Learned," ABA Mid-Year Meeting, Section of State and Local Government Law, New Orleans, Louisiana (February 2012)



Webinars

- FEMA Public Assistance Program Dispute Resolution: Appeals, Arbitration, and Alternatives (November 2023)
- Special Update: FEMA Funding of COVID-19 Costs (August 2023)
- Preparing for Hurricane Season: Legal Considerations of FEMA Funding (June 2023)
- An Inside Look at How to Effectively Navigate the FEMA Appeals and Arbitrations Process (May 2022)
- Key Considerations for FEMA's COVID-19 Emergency Protective Measures (February 2022)
- Smart City Transformation Through ARPA Funds (December 2021)
- Preparing for Hurricane Season: Updates to FEMA's Program and Procurement Rules (June 2021)

- How Health Care Organizations Can Take Advantage of Increased Federal Funding of COVID-19-Related Costs (March 2021)



Education

- The University of Mississippi School of Law, J.D., 2007, cum laude
- Mississippi State University, B.A., 2003, summa cum laude



Admissions

- Mississippi, 2007