

for half of February, because her efforts to find a job have been unsuccessful. Ms. Harris has called FEMA frequently over the last five months, and has been told that her application is “pending.” At one point, the FEMA representative told her that she needed to prove that she had lived in New Orleans, so she sent them a letter explaining where she had lived. Ms. Harris spoke with a FEMA representative on February 13, 2006, and was again told that she had to send in a notarized statement verifying that she had lived in New Orleans before the Hurricane and had lost her home. Ms. Harris is running out of money and does not know how she will pay her rent for the month.

63. Plaintiff April Johnson's home in New Orleans was heavily damaged during Hurricane Katrina. A FEMA representative inspected her home and found it to be uninhabitable. Ms. Johnson evacuated to the Convention Center and then to Texas, where she lived until October, 2005. After moving from place to place, she finally found a hotel room at the Maison St. Charles Quality Inn in New Orleans, which is where she currently resides. Ms. Johnson first applied for assistance from FEMA in early September 2005 while she was at the Convention Center. She received \$2,000 and \$2,358, but has not received any other assistance to date. A FEMA representative informed her that another check had been mailed, but she has not received it, nor was she informed of the amount or purpose of the check. Ms. Johnson has not requested further assistance from FEMA because she was not informed that she could obtain additional assistance. During one phone call FEMA informed her that she might be provided with a trailer, but she never heard anything further about the trailer. Ms. Johnson is currently working for UPS in New Orleans. She receives \$900 per month but it is not sufficient to afford a place to live in New Orleans. Ms. Johnson is scheduled to be evicted from her hotel on February 13, 2006, because she does not have an authorization code, and she is unsure where she will go.

64. Plaintiff Anita McDaniel lived with her three children and a roommate, Mr. Baugh, in New Orleans before Hurricane Katrina. Mr. Baugh was not related to or in a relationship with Ms. McDaniel, but rather a co-lessee. They evacuated in Ms. McDaniel's van to a shelter in Robelline, Louisiana where they stayed for approximately two days. Ms. McDaniel and her children then drove to Saline, Louisiana and stayed with a cousin for approximately two days. Ms. McDaniel drove back to Robelline, picked up Mr. Baugh from the shelter where he had remained and drove him to his parent's home in Bryan, Texas. Ms. McDaniel and her children stayed with Mr. Baugh's parents for the night, and then they left Mr. Baugh with his parents and moved to a shelter in College Station, Texas. After approximately four days they headed back towards Saline, Louisiana, staying at several hotels along the way. Ms. McDaniel and her children have had to move from hotel to hotel over the past few months. Ms. McDaniel has serious health problems, including a cerebral tumor. She applied for assistance from FEMA on or about September 4, 2005, but has not received any monetary assistance. She was told during a telephone call that she had been denied because she had no property damage. She explained that she had said she did not know what damage had occurred to her property, because she had not been back to her home yet. On October 25, 2005, Ms. McDaniel called FEMA and a representative told her that her application was voluntarily waived because she had not met with an inspector, despite the fact that she had not been notified on October 25, 2005, of an inspection appointment. During a telephone conversation with FEMA on October 25, 2005, Ms. McDaniel asked why her former roommate Mr. Baugh had received assistance, including a check for \$2,358 and a notice that their applications were being combined and she had not - FEMA hung up on her. She received a separate notice dated December 19, 2005, that stated her application for housing assistance had been voluntarily waived, that her total grant was zero, and that she had sixty days from that date to appeal. Ms. McDaniel called FEMA and was told she had

voluntarily withdrawn from the travel trailer program and that program was her housing assistance. Approximately four months earlier Ms McDaniel had signed a contract with FEMA to get a travel trailer for a period of 18 months. After waiting four months for the trailer, she learned she was to receive a one-bedroom trailer for one month that did not have adequate sewer hook-up or heat. When she told FEMA that this was not adequate for a family of four, she was told that if she did not accept the trailer she would be put at the bottom of the list for assistance and was also told to be careful what she requested or she might be "relocated to Florida, right into the path of another hurricane." Ms. McDaniel explained to a FEMA representative that she did not want to withdraw from the trailer program, but that she needed a larger trailer that is suitable for a family of four. On February 3, 2006, Ms. McDaniel called FEMA to request an authorization code to get an extension at her hotel beyond February 13, 2006 while she waited for a larger trailer. She was told to call back on February 13, 2006. On February 11, 2006 Ms. McDaniel again called FEMA to request a hotel extension. The FEMA representative informed her that she should know the guidelines and that FEMA's guidelines provided that she could not get an extension of her hotel beyond February 13, 2006 because she had an appeal pending.

65. Around mid-November 2005, plaintiff Cameron Eaton called FEMA to ask about continued assistance and was told that she did not need to submit any additional paperwork because all of the information they needed was in the system. Approximately one month later, Ms. Eaton still had not received a second payment of rental assistance and so she called FEMA again and was told that she had been approved for continued rental assistance for a three-month period starting in December 2005 and ending in February 2006. Based on this information, she told her landlord that she would stay in the apartment because she was expecting to receive her benefits shortly and would finally be able to pay rent. Around January 4, 2006, Ms. Eaton called FEMA again because she still had not received the money for which

she had been approved. Even though FEMA previously told her that they did not need any additional information, they suddenly asked her to send them additional documentation. Ms. Eaton faxed FEMA all of the information they requested. Because she was unable to pay her rent without FEMA assistance, her landlord asked her to move out, and so Ms. Eaton was forced to look for another place to live. However, everything was too expensive -- two bedroom apartments in the safe part of town cost between \$900 to \$1,200 per month, and apartments in New Orleans were too expensive as well. Ms. Eaton tried to find a roommate but no one wanted to live with small children and some people were reluctant to live with her because she is an evacuee. With no money for rent, Ms. Eaton and her daughters were forced to leave and stay with a friend. Ms. Eaton has called FEMA repeatedly in an effort to speed up the process. Finally, on January 16, 2006, FEMA confirmed that they had received Ms. Eaton's information and told her that she would receive a continued rental assistance check within 10-12 days. On approximately January 21, 2006, Ms. Eaton and her daughters moved into the house where they currently reside. There was no working plumbing and the house had no heat until February but Ms. Eaton took it because they needed shelter. Relying on FEMA to finally come through with the assistance they had promised, Ms. Eaton signed a lease for the house but has not paid any rent. She spoke with FEMA on around January 27, 2006, but the FEMA representative was unable to tell her whether she had been approved or denied. Several days later, FEMA told her that her application was still being processed but would be completed as soon as the appropriate signature was obtained for her check. However, on around February 6, 2006, FEMA called to tell Ms. Eaton that her application was in appeal. She explained that she had not filed an appeal but was told that her records showed that she had contested something. The FEMA worker changed Ms. Eaton's application status back to normal, but informed her that the timeline for processing it would get pushed back. Around the same time, Ms. Eaton found out from an SBA

representative that her loan application was denied because she was not in a stable living situation. Since then, Ms. Eaton called FEMA almost every day to check on the status of her continued rental assistance check. During every conversation, FEMA stated that they still had not received any information from SBA regarding her loan denial. As late as approximately February 10, 2006, Ms. Eaton was told that her application was still pending, causing her a great deal of frustration. She is currently in a dispute over the custody of her younger daughter and is worried that, since she has not received FEMA benefits, her inability to pay rent will impact the outcome. Ms. Eaton could face dire consequences if she does not receive FEMA benefits soon.

66. Plaintiff Kimberly Forrester was a resident of New Orleans when Hurricane Katrina struck New Orleans. Ms. Forrester shared an apartment with her roommate Shawn Allen where they both paid rent. Ms. Forrester evacuated to Dallas, Texas and stayed at a hotel for approximately five days. She then drove to various cities in search of work before returning to New Orleans at the end of November. Since November 22, 2005, she has been living at the Ambassador Hotel in New Orleans. Ms. Forrester registered with FEMA by phone in the beginning of September. She was not informed of the benefits that were available to her or what she would receive. On September 8, 2005, she received \$2,000 in her bank account and on October 15, 2005, an additional \$2,358. She has never received any explanation of what those funds should be used for and has consequently used them for her basic living expenses. On December 13, 2005, \$321 appeared in her bank account and she subsequently received a letter explaining that it was for "lodging reimbursement." Since registering, she has called FEMA more than fifty times to inquire about the status of her application. At a Disaster Recovery Center in San Antonio, Texas she was told by a FEMA representative that she and Mr. Allen would be classified as being part of the same household and that in order for both of them to receive assistance they needed to each write a letter to FEMA explaining that they had both paid

rent on their apartment. They have both filed such letters with FEMA. Ms. Forrester is unable to return to her pre-disaster home because the landlord is repairing it. Because she has a one-year lease, she has been paying rent to her landlord so that she can return to the apartment after it is repaired and in the event that she does not succeed in finding an alternative apartment. Ms. Forrester has been looking for an apartment since she returned to New Orleans but has been unable to locate an apartment that is affordable, as the assistance she has received from FEMA is not adequate to rent an apartment in New Orleans. Even though they no longer live together, her application for continued rental assistance was denied because her former roommate received assistance. During the last week of January, she applied for an authorization code to continue staying at the hotel but was told by a FEMA representative that she could only stay at the hotel until February 13, 2006.

67. Plaintiff Rosalind Jones was a resident of New Orleans, Louisiana when Hurricane Katrina struck. She rented an apartment with a roommate, Leon Hampton. Her apartment was completely flooded and destroyed by Katrina. She had not evacuated prior to the hurricane, so she was only able to take a bag of clothes with her when she left her home; everything else she owned was destroyed by Katrina. She was trapped in her home for two days after the storm. After she was able to leave her flooded home, she lived for two days in a school shelter, at which point they were evacuated by helicopters and taken to the Interstate. She waited on the Interstate for two days until buses came and brought her to the Houston Astrodome. After staying in the Astrodome for a day, Ms. Jones sheltered in a few different hotels paid for by FEMA. She has been for several weeks and is currently staying with friends in San Antonio, Texas, but she will not be able to stay there much longer. Ms. Jones applied for FEMA assistance on September 1, 2005. While she received \$2,000 in expedited assistance in October 2005, FEMA told her that she was ineligible for housing assistance because two other people,

Elaine Jordan and Julia Gibbs, had already applied for assistance using Ms. Jones's former phone number; FEMA considered the three of them as one household and, therefore, only eligible for one rental assistance payment. Ms. Jones told FEMA that the two other women were never members of her household, but merely occasional guests at Ms. Jones's home, and appealed in writing FEMA's denial. FEMA has not yet decided Ms. Jones's appeal, telling her in response to her daily calls that they are still reviewing her case. Ms. Jones has no income of any sort, and she cannot get food stamps or a job because she lacks identification. Perhaps even more ominous, she is an epileptic and needs a certain medication to prevent seizures, but she does not have this medicine, nor health insurance or money. Ms. Jones is in desperate need of housing assistance and would be willing to accept a trailer if FEMA would provide her with one.

68. Plaintiff Troy Tate was renting an apartment in New Orleans when Hurricane Katrina struck, damaging his home and rendering it uninhabitable. Mr. Tate was evacuated to a shelter in Kinder, Louisiana and from there went to California, where he is currently renting from a friend and looking for an apartment. Mr. Tate first applied for assistance from FEMA on September 12, 2005, at the shelter in Kinder. He did not receive the \$2,000 payment and only after approximately five months did he receive \$2,358 in assistance. He has not received any further assistance. Mr. Tate lost his job after Hurricane Katrina and currently only has a small amount of income from a temporary job. He has been looking for an apartment but in his area it costs approximately \$1,500 per month for a one-bedroom and \$1,900 for a two-bedroom apartment. When Mr. Tate arrived in California, he informed FEMA that the rent was too high and that he needed additional money for rent and never discussed whether he could get a higher rental payment. As a result, Mr. Tate concluded that \$2,358 was the maximum amount he could receive even though he ended up in an expensive area. However, the FEMA representative informed him that the \$2,358 is the standard amount. After his attorney

informed him that he may be eligible for a higher amount of rental assistance, Mr. Tate called FEMA again. This time he was told that a caseworker would make a decision. Mr. Tate has not received a response from FEMA, nor has he received any additional assistance. Without an increased amount of rental assistance, there is no way he will be able to start his life anew and he will not be able to find work without stable living conditions.

69. Plaintiff Marqweeta Wilson Harris, her husband and her two children have been waiting since at least early December 2005 for a determination on her application for continued rental assistance. After evacuating New Orleans after Katrina by driving all the way to Winston-Salem, North Carolina, where Marqweeta Harris and her family stayed with Ms. Harris's brother for one month. The Harris family then moved into an apartment in Winston-Salem for \$605/month, where they currently reside. In early September 2005, the Harrises registered with FEMA for assistance and received \$2,000 in emergency assistance and \$2,358 in rental assistance later that month. In October, they learned that FEMA had determined that they had withdrawn their application, which was untrue. Ms. Harris was forced to send a letter to FEMA affirming that the family had not withdrawn its application. At the end of November, the Harrises completed paperwork for continuing assistance and sent it to FEMA by mail and fax on December 6. Because Ms. Harris received no response, she called FEMA to follow up and was told the application was still pending. On January 12, 2006, Ms. Harris mailed in a second set of paperwork for continued assistance. As of February 13, 2006, the family has not received a response from FEMA on its request for continued assistance, which it needs to cover its rent in Winston-Salem.

70. Plaintiff Harold Winters lived with his wife, Connie, and their five children in New Orleans when Hurricane Katrina struck. Mr. Winters and his family drove to a Marriott Hotel in Dallas, Texas where they stayed for a couple of days at their own expense

before moving to a shelter. At the shelter they met a woman who told them they could stay for free in her home in Baytown, Texas for a few months. Mr. Winters and his family stayed there until they were evacuated because of Hurricane Rita. They then moved to an apartment in Plano, Texas and lived there for approximately six weeks while Mr. Winters searched unsuccessfully for work. Mr. Winters is a certified air conditioning technician. His wife found work in Texas and wanted to remain there; however, Mr. Winters left in search of work. He ended up in Shreveport, Louisiana, because his mother was admitted to the hospital in that area. Mr. Winters has been staying at La Quinta Inn in Shreveport and is currently staying there now. Mr. Winters is trying to find a job and an apartment that are close to each other because he no longer has a vehicle for transportation. On February 11, 2006, Mr. Winters asked FEMA for an extension because he needed more time to locate a job and an apartment that were near each other. He was informed that FEMA would give him an extension until March 1, 2006, but that that would be his final extension.

71. Plaintiff Charles A. Robertson currently is living with a friend in San Antonio, Texas, where he has lived since being airlifted to Kelly Air Force Base in San Antonio after the hurricane. Mr. Robertson lived with his mother and stepfather in New Orleans prior to the hurricane. That home was so heavily damaged that Mr. Robertson can no longer live there. Mr. Robertson currently is looking for work in San Antonio and most recently worked as a forklift driver for Northrop Grumman. He was told that his FEMA assistance application is "pending," although he has repeatedly told FEMA that he is no longer living with his mother and stepfather, who fled to Pearlane, TX ahead of Katrina. Mr. Robertson does not intend to move to Pearlane to live with his mother and stepfather. Although Mr. Robertson's friend has been the only thing standing between Mr. Robertson and homelessness since the hurricane, Mr. Robertson

cannot live with his friend much longer and is afraid he might become homeless without imminent FEMA assistance.

72. Plaintiff Courtney DeSalle is twenty-eight years old, and before the hurricane struck, she had her own mobile detailing business. She rented a room in New Orleans prior to Hurricane Katrina that is now uninhabitable. Ms. DeSalle lost her business and all her possessions in the storm. She was only able to take two days worth of clothes. Ms. DeSalle evacuated New Orleans on August 28, 2005, and went to Houston, Texas. She remained in Houston with three of her cousins while the rest of her family evacuated to Memphis, Tennessee and then to Colorado Springs, Colorado. Ms. DeSalle remained in Houston to search for her grandmother who had had surgery in New Orleans the Saturday before the storm and was supposed to have been evacuated by the hospital. Ms. DeSalle found out that her grandmother had been abandoned in the middle of a highway, and was then missing for two weeks following the storm. She was eventually located under a bridge not too far from New Orleans. After her grandmother was rescued, Ms. DeSalle reunited with her in Houston. A social worker arranged for them to fly to Colorado Springs to re-unite with the rest of her evacuated family. Ms. DeSalle was unable to take any of her belongings with her when she evacuated. She registered online with FEMA during the first week of September. Both she and her roommates have applied for assistance in the aftermath of the storm, but she is no longer in contact with them and therefore does not know if they received assistance. When she met with FEMA representatives at the DRC in Houston, they explained that she had to fill out an SBA loan application in order to receive FEMA assistance. The representative told her that they needed to process the application and then refer her case to FEMA. Ms. DeSalle has not heard anything further from regarding her SBA loan. The week before Christmas, a FEMA representative told her by telephone that they had inspected her property by satellite and that she was eligible to receive rental assistance and

money for her personal property. However, when Ms. DeSalle called FEMA on or around January 10, 2006, she was informed that the SBA had to send in her paperwork before she could be issued rental assistance or money for her personal property. FEMA informed her that it would likely take awhile longer because there was a huge backlog of SBA loan applications. As requested by FEMA, she faxed in her rental receipts and water bills from her pre-disaster residence to prove that she had lived there. Ms. DeSalle called FEMA a week later to find out the status of her application for rental assistance and heard an automatic message informing her that FEMA had closed her case because of a duplicate address. The FEMA representative that she spoke with said that FEMA had reviewed her case on January 2, 2006 and decided to close it because of duplicate address. However, Ms. DeSalle lived independently from the other residents in her pre-disaster household. They all relocated to separate locations after the storm, and she is no longer in contact with them and is unaware whether or not they received assistance. The representative informed her that her only option was to send in an appeal letter. Ms DeSalle submitted an appeal letter during the first week of February and was warned that there was a back log of appeals and that her request would take awhile. Ms. DeSalle has returned from Colorado Springs to New Orleans in search of employment because the apartments were too expensive in Colorado Springs for her to afford without rental assistance. After New Years, she made a reservation in the Hotel Le Cirque so that she could stay in New Orleans while she worked cleaning up debris and looked for permanent housing. Ms DeSalle has an authorization code to stay at the hotel until March 1, 2006. She wants to stay in New Orleans because the city is her home and where there are the most employment opportunities available. She is searching for an apartment for herself and her disabled brother who needs to move in with her as soon as possible because no one else in her family is capable of caring for him. Without assistance from FEMA, she does not know where or how she will be able to afford shelter because of the high

rents in New Orleans. Even though she has verified with a representative that her correct address and telephone number are in the FEMA system, FEMA has never sent a letter or called Ms. DeSalle.

73. Plaintiff Sonya Roberts Gilliam was a resident of New Orleans when Hurricane Katrina struck. At the time of the storm, she was renting a home in which she lived with her two young grandchildren, for whom she was the primary caregiver. Her 11 month old granddaughter was born with a partially undeveloped heart, which requires a pacemaker and constant medical attention. After suffering through the aftermath of the storm at the New Orleans Convention Center, where her granddaughter got sick and Ms. Gilliam herself developed a lung infection, Ms. Gilliam went with her grandchildren to the Extended Stay motel in Atlanta, Georgia. Ms. Gilliam lost most of her belongings in the evacuation process, as she did not have time to gather many items because she was forced from her home by gunpoint, and she lost her job as a hairdresser. Ms. Gilliam received \$2,358 in temporary housing assistance in December, but rent in Atlanta is very high. Ms. Gilliam's granddaughter's condition requires that they live close to a hospital, and with the amount they received they were only able to find an apartment on the outskirts of town, where bus service is infrequent. Nonetheless, when the manager at the hotel she was staying at told her she had to leave in the first week in January, she took such an apartment. She received no notice that she could receive a higher amount of temporary housing assistance due to the high cost of living in Atlanta. When she submitted her rent receipts to FEMA, they reimbursed her for the \$2,500 she paid. Ms. Gilliam recently returned to New Orleans to try to locate an apartment there, as her granddaughter's medical condition would be best served by being closer to her primary physicians. With rents she states are at least \$1,300 per month for a two bedroom apartment, there is no way she can afford that with the money FEMA has provided her. While FEMA representatives have told her she can be reimbursed for

such amounts she pays, she has received nothing official about such promises in writing. Furthermore, landlords in New Orleans require money up front in order to sign a lease. If Ms. Gilliam receives sufficient funds from FEMA to afford a clean and safe apartment, she would be able to get settled and focus her time and energy on getting a job and putting her life back together. If FEMA does not provide her with continued rental assistance, at the level of fair market rent in New Orleans, she will not be able to provide shelter for herself and her grandchildren in New Orleans.

**B. Class Plaintiffs**

74. Plaintiffs bring this action on their own behalf and on behalf of all those similarly situated.

75. Plaintiffs seek to represent a class consisting of all persons who (a) as of August 29, 2005, resided in either Louisiana, Mississippi, or Alabama, in areas declared to be Federal Disaster Areas; (b) were displaced from their pre-disaster primary residences or whose pre-disaster primary residences have been rendered uninhabitable as a result of damage caused by Hurricane Katrina; and (c) have applied for or will apply for Temporary Housing Assistance under the Stafford Act, pursuant to 42 U.S.C. § 5174(a) through (d) and the federal regulations promulgated thereunder, and (i) have not yet received any or all Temporary Housing Assistance, (ii) have unlawfully been denied in whole or in part Temporary Housing Assistance, (iii) have not been informed timely and/or adequately about the scope and conditions of the available Temporary Housing Assistance, and/or (iv) have been unable to apply or respond to denials or pendings of Temporary Housing Assistance due to a lack of information or accessibility to FEMA. The class does not include persons who have committed fraud in applying for Temporary Housing Assistance.

76. Each of the requirements of Federal Rule of Civil Procedure 23(a) is met.

77. Members of the class are so numerous that joinder of all members is impracticable, and individual litigation by each would necessarily and substantially burden the operation of the judicial system and is prohibitive because the individual class members lack the knowledge, sophistication, and financial means to maintain individual actions. In addition, the prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications establishing incompatible rules of law for the provision of disaster relief.

78. The number of class members can best be estimated from records in the control of defendants. They are believed to number in the thousands, and possibly tens of thousands.

79. There is a well-defined community of interest in the questions of law and fact involving the claims of the members of the class, in that FEMA has systemically applied the policies and practices challenged in this action to wrongfully delay or deny Temporary Housing Assistance to them in a manner required by law. Common questions of law and fact predominate in this case.

80. The claims of the named plaintiffs are typical of the class members in that each named plaintiff, due to the challenged policies and practices of FEMA, (a) has been displaced by Hurricane Katrina and/or had their primary pre-disaster residence rendered uninhabitable; (b) is eligible for Temporary Housing Assistance; and (c) has (i) applied for Temporary Housing Assistance and had it delayed or denied in whole or in part, (ii) has not been properly notified about the scope and conditions of the available Temporary Housing Assistance, and/or (iii) has been unable to apply for Temporary Housing Assistance.

81. The named plaintiffs will adequately and fairly represent and protect the interests of the class because each named plaintiff has suffered the same or similar harm, and

has the same or similar interest in redress of his/her rights as all other members of the class, and thus, their interests overlap and do not conflict. The attorneys representing plaintiffs, Schulte Roth & Zabel LLP; the Lawyers Committee For Civil Rights Under Law; John R. Pierre, Esq.; The Public Interest Law Project; and National Law Center On Homelessness & Poverty are experienced and capable litigators possessed of sufficient resources to adequately protect and represent the interests of the plaintiff class.

82. The requirements of Federal Rule of Civil Procedure 23(b)(2) are met in that the regulations, practices, and procedures which are the subject of this lawsuit, have been applied to the members of the class as a whole, and defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole. A class action is the exclusive method by which the interests of all affected persons can be adequately protected.

**C. Defendants**

83. Defendant Federal Emergency Management Agency (“FEMA”) was created in 1979 as a result of the merging of several pre-existing federal agencies that handled disaster-related responsibilities. FEMA is the federal agency designated by the President to administer the Temporary Housing Assistance program in accordance with the provisions of the Stafford Act and the federal regulations. As an agency of the federal government, FEMA’s actions are directed and carried out by other agencies and individuals. When used in this Complaint the acronym “FEMA” shall be understood to refer not only to that agency, but to defendants listed below as well.

84. Defendant Department of Homeland Security (“DHS”) has responsibility for approximately 22 formerly separate federal agencies, including FEMA, which are now subsumed within DHS’s Emergency Preparedness and Response branch.

85. Defendant Michael Chertoff has been the Secretary of the DHS from February 2005 through the present.

86. Defendant David Paulison has been the Interim Director of FEMA from September 12, 2005 through the present.

87. Defendant Vice Admiral Thad W. Allen has been FEMA's Principal Federal Officer with respect to relief efforts for Hurricane Katrina from approximately September 9, 2005 through the present.

88. Defendant Kenneth O. Burris, Jr. is the FEMA Regional Director with administrative responsibility for FEMA's response to Hurricane Katrina victims from Alabama and Mississippi.

89. Defendant Ron Castleman is the FEMA Regional Director with administrative responsibility for FEMA's response to Hurricane Katrina victims from Louisiana.

90. To coordinate the federal government's efforts in response to a disaster, FEMA recommends, and the President appoints, a Federal Coordinating Officer ("FCO") for each state affected by a disaster. Defendant Ron Sherman is the FCO with overall responsibility for FEMA's response to Hurricane Katrina in Alabama. Defendant William Carwile is the FCO with overall responsibility for FEMA's response to Hurricane Katrina victims in Mississippi. Defendant Bill Lockey is the FCO with overall responsibility for FEMA's response to Hurricane Katrina victims in Louisiana.

#### **IV. STATEMENTS OF FACTS**

91. FEMA is tasked with very broad and important responsibilities to help prepare for and respond to the needs of disaster victims. Of all the agencies in the federal government, FEMA has primary responsibility for disaster preparation, response, and relief assistance.

92. In particular, FEMA is required, on a non-discriminatory basis, to provide people whose homes were rendered inaccessible or uninhabitable as a result of a disaster with various forms of disaster assistance, including rental assistance and temporary housing. FEMA is further required to disseminate to disaster victims information regarding the availability of such assistance, as well as the criteria for obtaining and maintaining such assistance, and to do so in a manner designed to reach those victims during times of disaster.

93. FEMA has bungled its assignment. As delineated herein, FEMA acted incompetently before, during, and after Hurricane Katrina struck, and failed to heed warnings and take preventive actions that could have saved lives and alleviated suffering.

**A. FEMA Ignored Predictions Of Hurricane Katrina And Hundreds Of Thousands Unable To Evacuate And In Need Of Temporary Housing**

94. In 2004, FEMA designated a major hurricane hitting New Orleans as one of the three “likeliest, most catastrophic disasters facing this country.” The U.S. Army Corps of Engineers had for years sought to strengthen the levees in New Orleans, only to have its budget requests slashed.

95. As set forth above, in July 2004, FEMA, together with Louisiana officials, conducted the Hurricane Pam planning exercise. That exercise predicted results strikingly similar to those of Hurricane Katrina, including flooding of up to 20 feet of water, high enough in parts of New Orleans to top the levees, and destruction of 87% of the area’s housing. The exercise also revealed that, because of the city’s poor population, only a third of the population would be able to leave New Orleans before the storm hit.

96. The purpose of the July 2004 Hurricane Pam exercise was to develop a disaster recovery plan for the 13 parishes in the New Orleans area. Shelters for those who evacuated or were rescued, and housing options for the thousands likely to be left homeless for

months after the storm, were deemed to be essential. In particular, the project identified the need for about 1,000 shelters which would likely need to remain open for 100 days.

97. The federal government's reaction to Hurricane Pam was the same as it had been in prior years – to slash funding earmarked for strengthening the levees and mitigating the dangers of flooding in the mostly impoverished Southeastern Louisiana. FEMA is not believed to have taken any actions with respect to establishing the emergency shelters for evacuees called for by Hurricane Pam.

**B. Hurricane Katrina Devastates The Gulf Coast Region**

98. On Monday, August 29, 2005, at 6:10 a.m., Hurricane Katrina made landfall in the town of Buras, Louisiana with winds of 145 mph as it headed toward New Orleans. By 8:14 a.m., a levee was breached along the Industrial Canal at Tennessee Street, quickly submerging much of the lower 9th Ward and nearby areas, trapping thousands of people. At approximately 9:00 a.m., the eye of the storm traveled just east of central Orleans Parish, causing floods up to the rooftops of homes in the newly affected areas. Shortly thereafter, the 17th Street Canal levee in New Orleans was breached, causing eighty percent of New Orleans to be under water, up to twenty feet high, by the next day. By 11:00 a.m. a third levee breach occurred at the Mississippi River Gulf Outlet in St. Bernard Parish, flooding almost one hundred percent of the buildings there. Almost all of the 26,700 homes in St. Bernard Parish were flooded, and homes in communities of St. Bernard Parish outside of the levee protection system were simply swept away. The majority of those who lost their homes in New Orleans lived below the poverty line. For example, in the lower 9th Ward somewhere between 56% and 100% live below the poverty line.

99. The levee breaches along both the Mississippi River Gulf Outlet and Lake Ponchartrain were actually predicted by the government's July 2004 Hurricane Pam drill. Yet,

on September 1, 2005, President Bush told *Good Morning America*, “I don’t think anybody anticipated the breach of the levees.”

100. At about 10:00 a.m., Hurricane Katrina made a second landfall near Pearlinton, Mississippi. About ninety percent of the buildings along Mississippi’s Gulf Coast were wiped out by a thirty-foot storm surge.

101. At approximately 11:00 a.m., the eastern side of Hurricane Katrina’s eye passed over Mobile, Alabama, submerging large sections of the city underwater.

102. In the affected areas of Louisiana, Mississippi, and Alabama, more than 90,000 people had incomes of less than \$10,000 per year. In Orleans Parish and the seven other Gulf Coast counties hit hardest by Katrina, over 40 percent of children were living in households with incomes below the federal poverty threshold.

103. Tens of thousands of people who lived in the path of Hurricane Katrina were displaced by the storm and the floods that followed. More than 300,000 people were forced to evacuate from Louisiana, Mississippi, and Alabama; most lost everything except whatever belongings they were able to carry with them – a single change of clothes, a handful of papers, and, for those who were lucky, food for the day. At least 250,000 people were forced into shelters across the country. By September 2, nearly 154,000 evacuees had arrived in Texas, and 1.5 million households remained without electric power. As of October 24, tens of thousands of people evacuated from their homes remained in shelters. In Mississippi alone, more than 14,000 people stayed in 152 shelters throughout the state.

**C. FEMA’s Response To The Victims Of Hurricane Katrina: A Bureaucratic Disaster**

104. By August 31, two days after the hurricane had struck, thousands were stranded in their homes, on raised highways, and at the convention center, without food, water, or electricity. Most, if not all of them, were part of the so-called “underclass.” *The Times-*

*Picayune* reported that there was “no apparent contingency plan or authority to deal with them.” In the face of this suffering, Secretary Chertoff stated, “[w]e are extremely pleased with the response that every element of the federal government, all of our federal partners, have made to this terrible tragedy.”

105. On September 1, New Orleans’ Homeland Security Chief, Terry Ebbert, bitterly complained that FEMA was not offering adequate help. “This is a national disgrace. FEMA has been here three days, yet there is no command and control. We can send massive amounts of aid to tsunami victims, but we can’t bail out the city of New Orleans.” New Orleans Mayor Ray Nagin issued “‘a desperate SOS,’ ... with thousands of people stranded at the city’s convention center with no food, water or electricity – and fading hope.” That same day, then FEMA Director, Michael Brown, told *CNN* that he only became aware of the situation at the convention center from news reports that day. The next day, President Bush praised Brown, stating, “Brownie, you’re doing a heck of a job.”

106. On September 3, FEMA’s failings could no longer be ignored. President Bush acknowledged, “many of our citizens simply are not getting the help they need, especially in New Orleans. And that is unacceptable.” On September 6, Republican U.S. Senator Susan Collins of Maine, the chairwoman of the Homeland Security and Governmental Affairs Committees, stated what had become obvious to all of America: “It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days.”

107. On September 9, 2005, Brown was recalled from his post as the on-site head of hurricane relief operations in the Gulf Coast Region and sent back to Washington. Three days later, amid criticism of FEMA’s response to the disaster and questions about his qualifications, Brown resigned as Director of FEMA. David Paulison, a 30-year fire and rescue

veteran, was named FEMA's interim Director. Vice Admiral Thad W. Allen was chosen to lead the on-site hurricane relief efforts.

**D. Defendants' Systemic Failure To Provide Information and Temporary Housing Assistance To Victims Of Hurricane Katrina**

108. FEMA's failures in connection with Hurricane Katrina go beyond inadequate planning and preparation. In the days after Hurricane Katrina struck, and continuing to this day, failure and incompetence have also permeated FEMA's efforts to provide Temporary Housing Assistance to eligible disaster victims, including the named plaintiffs.

109. The hurricane destroyed hundreds of thousands of homes in the Gulf Coast Region. Indeed, Vice Admiral Thad W. Allen recently estimated that "200,000 to 250,000 housing units in New Orleans and elsewhere along the Gulf Coast had been lost or were uninhabitable." The loss of a home for many people amounts to more than just a loss of brick and mortar, but rather a loss of hope. Those disaster victims need help finding and paying for housing, clothing, and other necessities. And the longer FEMA and the other defendants continue to deny the named plaintiffs and the class members any Temporary Housing Assistance, the more misery the plaintiffs will be forced to endure.

**1. FEMA Took Too Long To Open DRCs Where Hurricane Victims Could Go For Help**

110. FEMA has shown ineptitude in providing disaster victims with even the most basic of disaster relief services – a place to go to after the disaster for information, to apply for assistance, and to get some comfort and hope.

111. A disaster recovery center ("DRC") is a facility established in, or in close proximity to, a community affected by a disaster or where evacuees from a disaster have been re-located. DRCs are supposed to provide a central place for victims to meet face-to-face with FEMA personnel, and other federal, state, and volunteer agencies, to discuss their disaster-

related needs, register for assistance, update their registration information, and ascertain the status of their applications. DRCs often are described as “one-stop” shopping centers because of the varied and essential services they are expected to provide. As such, the DRCs are a central feature of FEMA relief.

112. Despite ample warning of the approaching storm, FEMA waited until five days after Hurricane Katrina made landfall to open its first DRC. FEMA did not open a single DRC in Louisiana or Mississippi until September 6, nine days after the storm hit. Inexplicably, FEMA waited weeks before opening DRCs near the areas that suffered the most damage or had the most evacuees.

113. As of two weeks after the disaster, FEMA had set up only two DRCs in all of Louisiana, where there still were tens of thousands of people living in shelters or otherwise without housing, and only four DRCs in each of Mississippi and Alabama, where approximately 20,000 people needed help. Although several cities in Mississippi suffered pervasive damage from both the hurricane and related tornadoes, FEMA did not open any DRCs in Gulfport and Biloxi until September 16, nearly three weeks after the disaster. And FEMA has still not opened a DRC near towns hardest hit by Hurricane Katrina. For example, the town of Pearlinton, in Hancock County Mississippi, was reduced to a heap of debris, yet FEMA came there only once, to remove the portable toilets that had been set up there by one of FEMA’s temporary contractors. Many Pearlinton residents are still living in tents and under tarps.

114. The hardest hit areas of Orleans Parish are located on the Parish’s East Bank of the Mississippi River. These areas are predominantly African-American and poverty-stricken. For example, in the lower 9th Ward the population is 88.8% to 100% African American, and somewhere between 56% and 100% of the residents lived at least two times below the poverty line. The first DRC to open in Orleans Parish, however, was on the West

Bank of the Mississippi River, which was not accessible to those on the East Bank of the Parish. FEMA did not open a DRC on the East Bank of Orleans Parish until October 10, six weeks after Hurricane Katrina struck.

115. Although FEMA evacuated nearly 125,000 victims to Houston, Texas, FEMA did not open a DRC in Houston until September 28, nearly a month after the disaster. It took eighteen days for FEMA to open its first DRC in Baton Rouge, Louisiana. Arkansas received more than 50,000 evacuees, but not a single DRC. Atlanta and Memphis received tens of thousands of evacuees, but not a single DRC. That FEMA has not opened DRCs in these areas and others is particularly outrageous given that, in many instances, it was FEMA who brought the disaster victims to these locations.

116. Where FEMA did provide a DRC, staff often gave inaccurate or incomplete information, or were otherwise unhelpful. For example, FEMA staff at some DRCs refused to assist victims to apply for assistance, instead referring them to the Internet or the FEMA 800 number, ignoring the reality that most places struck by Katrina lacked electricity or phone service. Victims in Alabama, as well as in other states, who did have access to a computer needed Internet Explorer 6.0 to apply for assistance on the FEMA website, making it impossible for a person using a Linux or Macintosh-based computer to register. In addition, many applicants were “timed out” from the website when trying to apply online because they were not quick enough.

117. Victims in Mississippi faced similar problems. Rep. Gene Taylor complained that, although there was no electricity, very limited phone service, and no Internet access in South Mississippi, “FEMA representatives are handing out brochures encouraging people to make FEMA’s job a little easier and call or register online to get help.”

**2. FEMA Has Failed To Provide Victims With Accurate And Necessary Information Regarding The Rental Assistance**

118. On September 24, 2005, more than 4 weeks after the disaster, FEMA announced: “[e]vacuees eligible for housing assistance through [its Individual Housing Program] will receive an initial three month rental assistance payment in the form of check or electronic fund transfer in the amount of \$2,358. This initial payment is calculated based on the average fair market rent rate for a two-bedroom unit nationwide. This payment is portable and may be applied to transitional housing costs for any location an evacuee determines.”

119. Many people simply have not yet received this “expedited” rental assistance. For example, plaintiffs F. Jackson, W. Davis, Calvin Davis, McWaters, Hubbard, Smith, Price, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson and Van Tino are still waiting for rental assistance, while approximately three months have passed since they applied.

120. Many people do not understand what they must do once the initial three-month period elapses to extend the rental assistance. FEMA stated in a September 24 “Fact Sheet” that “[r]ental assistance will begin with payments for three months of housing totaling \$2,358 and will be extended for qualifying evacuees up to 18 months.” Nonetheless, disaster victims who apply or who receive assistance are rarely told they can extend it, and some have been told by FEMA, incorrectly, that rental assistance is not available beyond the initial three month period except to pre-disaster homeowners.

121. Other victims were not told and do not understand what the rental assistance can be applied to and, in particular, the extent to which it may be used for security deposits, utilities, and other essential needs. For example, plaintiffs Colomb, Hayward, Goodman, P. Jackson and Martinez all received rental assistance without any information as to how it was to be used, and as a result, spent some or all of the money on basic living expenses

beyond rent. FEMA is now penalizing these victims by insisting that they pay back the money spent on basic living expenses other than rent or risk being denied additional rental assistance.

122. In addition, FEMA failed to notify disaster victims of their right to seek additional rental assistance based on family size, the locale in which they are renting, or other circumstances. The Stafford Act and the federal regulations promulgated thereunder recognize that not every household is the same size, and that treating them so creates inequities. Therefore, 44 CFR § 206.117 provides a mechanism for larger households to obtain additional rental assistance by allowing the Regional Director or his/her designee to consider whether “the size or nature of the household requires that they provide assistance for more than one residence.” Thus, although the initial amount of rental assistance provided to victims of Hurricane Katrina is \$2,358 (\$786 per month) per household, based on the national average fair market rental rate for a two-bedroom unit, circumstances may dictate that certain households receive more.

### **3. FEMA Has Played “Don’t Ask, Don’t Tell” With Trailer Assistance**

123. More than two months after the disaster struck, FEMA still has not given thousands of disaster victims information regarding the availability of trailer assistance under the Stafford Act. Even for those disaster victims fortunate enough to penetrate the trailer application process, many of them are still waiting for a trailer as FEMA has failed to deliver on its promises to people that they would be receiving one.

124. Temporary trailers, for many people, are not the optimal living situation. This is particularly so given FEMA’s track record of turning temporary trailers into permanent housing, rather than formulating plans to address the long range problems associated with the mass destruction of homes. Too often, so-called “FEMA-villes” become permanent slums and ghettos and add to, rather than alleviate, the challenges faced by the poor. These concerns resonate loudly for victims of Hurricane Katrina, as once again FEMA has not formulated a

long-term plan to provide people with permanent housing, as required under the Stafford Act. Yet, for many people trailers are their only option. Because Hurricane Katrina destroyed entire towns and communities, there are often no places left standing to find rental housing. For those victims, and for people who want to be close to their homes while they rebuild, a trailer is the only option.

125. The process of obtaining trailer assistance from FEMA has been fraught with red tape and other bureaucratic impediments, and FEMA has been very slow to deliver the much-needed trailers. The *New York Times* reported on September 30 that FEMA had “placed just 109 Louisiana families” in trailers and mobile homes, that a “month after the disaster, the federal government’s temporary housing effort is stumbling,” and that, according to the inspector general for the Department of Homeland Security, “FEMA was freezing many orders for trailers.”

126. On October 4, 300 house trailers began arriving in St. Tammany Parish, although FEMA was asked to provide 20,000 trailers and mobile housing units in the Parish. On October 5, residents at a meeting with FEMA in St. Bernard Parish were warned by a FEMA representative that “we don’t have enough trailers, guaranteed.”

127. On October 18, 2005, Governor Haley Barbour of Mississippi reportedly said that “even if 500 new trailers were made available each day, it would still be early next year before there would be enough for Mississippians left homeless by the storm.” And on October 30, 2005, the *Times-Picayune* reported that Vice Admiral Allen, who heads FEMA’s relief effort, acknowledged that FEMA has not ordered enough trailers.

128. Many people who received rental assistance are forced to remain in shelters because they are still unable to find a place to rent, and thus are in need of a trailer.

Those people are eligible for trailer assistance, but either were not notified by FEMA of that option or had no idea how to apply.

129. Other people, who have been identified as qualifying for a trailer, have still not received a trailer and have no idea when or if they will ever get one. Plaintiffs Jones and Patin have applications pending.

130. Many victims of Hurricane Katrina, particularly low-income victims, are part of very large and extended families that share a single home. Such households merit more Temporary Housing Assistance than a “standard,” smaller household. They cannot be adequately housed with the single standard-sized trailer provided to a household a fraction of its size. Yet, FEMA has not provided these households with larger sized trailers, or treated them as multiple households for purposes of receiving trailer assistance.

131. FEMA has even caused the eviction of people from inhabitable trailers to make room for FEMA trailers. For example, plaintiff Pamela Jackson’s trailer, which was only mildly damaged during the hurricane, was removed from its place in a New Orleans trailer park so that a trailer provided by FEMA to another hurricane victim could be placed in its spot.

**4. FEMA Has Applied The “Shared Household Rule” Inappropriately And Arbitrarily To Deny Temporary Housing Assistance To Eligible Victims**

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132. Under the so-called “Shared Household Rule,” FEMA treats everyone thought to be part of the same pre-disaster household as a single unit for purposes of Temporary Housing Assistance. Thus, it is FEMA policy that “[p]eople living together in one residence before the disaster are expected to continue to live together after the disaster. Generally, assistance is provided to the pre-disaster household as a unit.”

133. It is unreasonable to expect that after a major disaster such as Hurricane Katrina, which destroys not only hundreds of thousands of homes but also entire towns, families

will all remain intact. That is particularly so here, where FEMA, once it actually started evacuating people (albeit in a haphazard fashion), often evacuated different members of the same family to different places.

134. In recognition of the fact that disasters disintegrate families such that they are no longer able to share a single household, FEMA is authorized to “provide assistance for more than one residence.” 44 CFR § 206.117. Plaintiff W. Davis’ application for Temporary Housing Assistance was denied most likely because his brother applied using his address. However, since Hurricane Katrina, plaintiff W. Davis has been in Louisiana and has not been in touch with his brother, whom he believes is somewhere in Texas.

135. FEMA has unfairly and unlawfully applied these regulations; indeed, its decisions have been rigid and punitive. For example, for many households separated after the disaster, often because FEMA evacuated family members to disparate locations, FEMA has denied or frozen the benefits to a second member of a pre-disaster household that applied for benefits.

136. In other circumstances, FEMA has used a complete misapplication of the Shared Household Rule as a basis for denying any benefits to eligible disaster victims. For example, it was often the case that multiple unrelated individuals and/or families would live at the same address, such as in a multi-dwelling building, rooming house, or other common facility. FEMA, however, has denied Temporary Housing Assistance to individuals who shared an address with other individuals and households who had already applied for benefits, presumably on the theory that everyone at a shared address must be treated as a single household, even though each of those applicants paid separate rent for their own households. At least some of these denials of Temporary Housing Assistance are based on FEMA’s presumptions of fraud by one or more of the applicants.

137. For example, the applications of plaintiffs McWaters, Smith, W. Davis, Simpson, M. Davis, and Price have been denied or frozen due to the misapprehension by FEMA that they shared a household with someone else who already had applied. Plaintiff Smith was considered to have shared a household with five other men each of whom had been placed in the same facility and who shared a phone number with Smith. Plaintiff Price was placed in a shared apartment by his employer and did not know any of his apartment mates. Plaintiff W. Davis was denied Temporary Housing Assistance because his brother, who had temporarily been staying with him, applied using W. Davis' address.

138. Plaintiff McWaters was denied Temporary Housing Assistance because she lived in the same home as her brother and mother who also had applied for assistance, notwithstanding the fact that she paid her mother rent. Apparently, FEMA concluded that Ms. McWaters, who was a teacher for 15 years before acting as an assistant principal and then principal for 24 years, and her 93 year-old mother and disabled brother, were all part of a massive conspiracy to commit fraud. Plaintiff Hood was also denied Temporary Housing Assistance because he lived in the same home as his parents who had also applied for assistance, even though he paid them rent.

139. FEMA has also treated the elderly or ill who live with a caregiver or in a group home as being part of the same household for purposes of receiving Temporary Housing Assistance.

140. FEMA's application of the Shared Household Rule in these circumstances is unlawful, punitive, and inconsistent with the Stafford Act. It also has resulted in a particular disparate hardship to low income persons because many low-income disaster victims shared housing prior to the hurricane to reduce housing costs, but maintained separate households.

141. FEMA has applied its Shared Household Rule inconsistently, waiving it for some but not for others. As reported in the *New York Times* on November 11, 2005, FEMA changed its policy for a friend at the request of the President, allowing FEMA subsidized trailers to house evacuee employees whose families were also living in other FEMA subsidized quarters. Yet, FEMA, while allegedly changing its policy, has not published nor made public its modified policy, leaving it free to apply the policy inconsistently.

**5. FEMA Has Impermissibly Coupled SBA Loans With The Temporary Housing Assistance Application Process**

142. Section 5174(a)(2) of the Stafford Act provides that “an individual or household shall not be denied [temporary housing] assistance ... solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.” Yet, FEMA has coupled the SBA loan and Temporary Housing Assistance application process to deny assistance to those who do not complete an application for an SBA loan.

143. The application process for FEMA benefits requires individuals to provide information about their income. This question is intended to ascertain whether the applicant would be eligible for an SBA loan, but has no bearing on eligibility for Temporary Housing Assistance.

144. Many of the victims of Hurricane Katrina are not well-educated and, thus, answering questions about income can be difficult. In the event an applicant does not answer the “income” question, or does not answer it properly, their application is automatically “flagged” and no benefits are provided. Then, applicants will be sent an SBA loan application which must be fully executed before the FEMA application will be processed. When applicants apply online, and sometimes when they apply by phone, they are not instructed about the implications of the income question. If the income question is answered, an applicant whose income is above a

certain unpublished threshold is also required to execute an SBA loan application before obtaining any FEMA benefits.

145. Having to complete the SBA loan application as a condition to obtaining Temporary Housing Assistance is significant. It delays the receipt of desperately needed Temporary Housing Assistance because the SBA loan applications cannot be completed on the phone or online; instead, they must be completed on paper, which means waiting to receive an SBA loan application by mail (which raises its own problems), and then completing the application (which is very confusing for some people), and then waiting for it to be processed. This entire process can take weeks, thereby unnecessarily delaying the receipt of Temporary Housing Assistance and subjecting disaster victims to further aggravation and undue hardship.

146. Many victims of Hurricane Katrina have been hampered from pursuing their Temporary Housing Assistance because of the confusion and misinformation perpetuated by FEMA regarding the need to seek an SBA loan.

147. Many other victims, who did not want to apply for an SBA loan, did so because they were told if they did not apply, they would be denied FEMA benefits. For example, plaintiffs Jones, Magee, Smith, and Allen were told that they needed to fill out an SBA loan in order to receive FEMA benefits. Plaintiff Allen's case was closed because he did not apply for an SBA loan, notwithstanding the fact that he did not want a loan because he could not afford to repay it and did not know that applying for a loan was necessary to receive Temporary Housing Assistance.

**6. Defendants' Termination Of Its Short-Term Lodging Program Is Premature And Will Leave Thousands Of Evacuees Without Any Housing Alternative**

148. Following Hurricane Katrina, many displaced families and individuals, including members of the class, were placed in hotels and motels by the American Red Cross

("Red Cross") because they did not have anywhere else to go. The Red Cross created its "Direct Payment Hotel/Motel Program" to reimburse hotels and motels for rooms provided to Hurricane Katrina evacuees, until such time as they were able to find more permanent housing. In mid-September, the Red Cross announced it would extend the program for an additional 30 days and would continue to grant extensions every 30 days until other housing options became available.

149. On October 24, 2005, FEMA took over the hotel/motel program from the Red Cross, changing its name to the "Short-Term Lodging Program." As was the case when run by the Red Cross, the purpose of FEMA's Short-Term Lodging Program has been to provide short-term lodging for evacuees until they are provided an alternative housing option. While they are in hotels and motels, FEMA is supposed to process their applications for Temporary Housing Assistance and assist them in finding other living accommodations. At various times up to and including the present, plaintiffs Michelle Davis, Shawn Allen, Timothy Hood, Michael Martinez, Charles Hill and Lenora Bartley have had their hotel or motel rooms paid by FEMA pursuant to the Short-Term Lodging Program.

150. The Short-Term Lodging Program is separate from the Temporary Housing Assistance program provided under the Stafford Act. Participation in the Short-Term Lodging Program does not count against the \$26,200 in Temporary Housing Assistance provided to eligible individuals under the Stafford Act.

151. On November 15, 2005, FEMA announced for the first time that as of the close of business on November 30, 2005, it would no longer pay hotels and motels for rooms occupied by Hurricane Katrina victims. Currently, more than 50,000 hotel rooms are occupied by 150,000 Hurricane Katrina evacuees, including plaintiffs Michelle Davis, Shawn Allen, Timothy Hood, Michael Martinez, Charles Hill and Lenora Bartley. The majority of these hotel rooms are in Texas, Louisiana, Georgia and Mississippi, but there are evacuees living in hotels in