

50 states, the District of Columbia and U.S. territories. In many cases, FEMA has failed to provide these evacuees with the Temporary Housing Assistance to which they are entitled.

152. Under pressure from various government officials and housing advocates, and as a result of the unreasonableness of expecting evacuees to lease apartments or make other arrangements within 15 days, on November 22 FEMA announced that it would extend the deadline to December 15, 2005. FEMA also announced that the December 15 deadline for 10 states (Louisiana, Mississippi, Texas, Georgia, Florida, Alabama, California, Tennessee, Arkansas, and Nevada) could be further extended in two-week intervals until January 7, 2006, but only if those states met certain conditions.

153. The current deadlines leave evacuees with a minimum of 17 days to find other living arrangements. This will not provide the named plaintiffs and other members of the class currently benefiting from the Short-Term Lodging Program with sufficient time to find substitute housing, even assuming they receive the Temporary Housing Assistance to which they are entitled.

154. Although Congress intended that the Stafford Act "provide an orderly and continuing means of assistance by the Federal Government" (42 U.S.C. § 5121) and FEMA's policy is to provide a "continuing means of assistance" (44 C.F.R. § 206.3), FEMA's termination of hotel/motel funding creates gaps in assistance, unnecessarily causing hardships and homelessness.

## **V. GENERAL ALLEGATIONS**

### **A. Harm To Recipients And The Public**

155. Defendants' wrongful conduct has caused and will continue to cause plaintiffs and their class members irreparable harm and injury in that, absent judicial relief, they

will be wrongfully denied and delayed essential housing assistance that is necessary for the health and welfare of the applicants and their families.

156. Without that housing assistance, plaintiffs and their families, and similarly situated class members, are unable to remain continuously in affordable housing and face a threat of homelessness, or worse.

157. Many plaintiffs and their families, and similarly situated members of the class, have been forced to live in unsafe and unsanitary conditions which has caused medical complications, and many others will soon be forced to live in those intolerable conditions.

158. Many plaintiffs and their families, and similarly situated members of the class, have been displaced and evacuated to distant places around the country, often by FEMA, and left without housing assistance and the means to return to their communities.

159. The lack of housing assistance for plaintiffs and their families, and similarly situated members of the class, has also served to split families and pre-disaster households apart.

160. Defendants' continued failure and refusal to provide housing assistance to thousands of individuals and families is causing, and will likely continue to cause, further destitution, homelessness, hunger, stress, and, as a consequence, increase the risk of illness and danger in their lives.

161. Defendants' wrongful conduct also results in significant costs to the public and waste of taxpayer funds. The loss of critically needed housing assistance harms those communities which have been literally destroyed by Hurricane Katrina. It also harms many other communities throughout the country which have reached out to assist those who have been displaced and evacuated and are now faced with increased homelessness and, consequently, a

higher incidence of persons with mental and emotional distress, illness, diseases, and substance abuse.

162. As a result of this federal misconduct, state and local governments must expend significant additional funds for the increased use of county health as well as other staff and facilities to remedy these increased problems.

**B. No Adequate Remedy At Law**

163. The above policies and practices of defendants have had the effect of failing to make Temporary Housing Assistance available to many thousands of disaster victims who were displaced and/or whose homes were rendered uninhabitable by Hurricane Katrina, resulting in widespread homelessness and misery amongst residents of Louisiana, Alabama, and Mississippi.

164. Plaintiffs and the class members are without a plain, speedy or adequate remedy at law, thereby rendering injunctive relief appropriate in that (a) damages cannot adequately compensate plaintiffs and their class for the injuries suffered; (b) damages for the harm inflicted upon plaintiffs and their class are difficult to ascertain; and (c) if the conduct complained of is not enjoined, a multiplicity of suits will result in that FEMA's unlawful conduct is continuous and ongoing.

**FIRST CAUSE OF ACTION**

**(Failure to Provide Temporary Housing Assistance – Stafford Act Violation)**

165. Plaintiffs F. Jackson, Calvin Davis, W. Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Patin, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 164 inclusive.

166. Plaintiffs F. Jackson, Calvin Davis, W. Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Patin, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson meet the eligibility requirements for receiving Temporary Housing Assistance and applied for rental and/or trailer assistance months ago.

167. Inexplicably, plaintiffs F. Jackson, Calvin Davis, W. Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Patin, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson still have not received any Temporary Housing Assistance from FEMA, and to the extent they have been able to reach a FEMA representative to ascertain the status of the benefits, they have been told only that they are “pending,” without any indication as to when they can expect to receive the Temporary Housing Assistance that they applied for months ago.

168. By delaying Temporary Housing Assistance to these plaintiffs, and similarly situated members of the class, FEMA has violated and continues to violate its mandate to provide Temporary Housing Assistance to eligible persons, as directed by the President, and as funded by Congress. As long as their Temporary Housing Assistance is delayed, plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Patin, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, and similarly situated members of the class, will continue to suffer harm.

169. As a result, defendants have violated the rights of plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Patin, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, and similarly situated members of the class, under the Stafford Act and the federal regulations to receive Temporary Housing Assistance for which they are eligible.

## SECOND CAUSE OF ACTION

### (Failure to Provide Temporary Housing Assistance – Due Process Violation)

170. Plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley, Patin, Bradix, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 169 inclusive.

171. Plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley, Patin, Bradix, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, and similarly situated members of the class, as eligible disaster victims, have a property interest in the ability to claim and make use of Temporary Housing Assistance available under the Stafford Act and the federal regulations.

172. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from employing procedures that are not reasonably designed to prevent arbitrary or erroneous delays or determinations with respect to claims for Temporary Housing Assistance, and from depriving plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley, Patin, Bradix, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

173. The Temporary Housing Assistance available under the Stafford Act is intended to alleviate the misery and suffering of disaster victims who have lost their homes, and to do so on an expedited basis. Rather than alleviate that suffering and deliver assistance to

plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley, Patin, Bradix, Mims, Lewis and Chattmon, and similarly situated members of the class, FEMA has subjected them to interminable delays and bureaucratic red tape, thereby adding to their despair. That FEMA has still not provided these plaintiffs, and similarly situated members of the class, with their Temporary Housing Assistance is facially unreasonable given the purpose of this assistance and the urgent needs of these plaintiffs, and reflects the arbitrary nature of FEMA's procedures with respect to processing claims for Temporary Housing Assistance.

174. This amounts to a deprivation of a property interest without notice and due process and demonstrates that FEMA does not have procedures in place that are reasonably designed to prevent arbitrary and erroneous benefit delays and determinations.

175. As a result, defendants have violated the rights of plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley, Patin, Bradix, Mims, Lewis, Chattmon, Craft, K. Harris and Robertson, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

### **THIRD CAUSE OF ACTION**

#### **(Failure To Provide Notice of Continued Rental Assistance Requirements – Stafford Act Violation)**

176. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 175 inclusive.

177. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Martinez, Johnson, M.W. Harris, Forrester and Eaton meet the eligibility requirements for receiving Temporary Housing Assistance, and have already received \$2,358 from FEMA for 3 months of expedited

rental assistance. Plaintiff Allen meets the eligibility requirements for receiving Temporary Housing Assistance, and, inexplicably, only received \$1,392 from FEMA for 3 months of expedited rental assistance.

178. When receiving that assistance, plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, and similarly situated members of the class, did not receive information from FEMA regarding the limitations for use of that rental assistance, the circumstances whereby continued rental assistance is available for up to 18 months and the specific criteria for being re-certified for such continued rental assistance.

179. Because FEMA did not provide such information to plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown and Bradix, and similarly situated members of the class, they used the rental assistance on food and other necessary expenditures that FEMA has since indicated are not appropriate and will have to be repaid, and thereby unknowingly impaired their ability to obtain continued rental assistance beyond the expedited three month period.

180. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Bradix, Johnson, M.W. Harris, Forrester and Eaton, and similarly situated members of the class, should not be denied benefits they are eligible to receive under the Stafford Act because of FEMA's failure to provide them with basic information regarding those benefits. By not providing basic notice of the scope of Temporary Housing Assistance provided under the Stafford Act and its conditions for use, and then denying further benefits to an eligible disaster victim because of that failure to provide notice, FEMA has violated and continues to violate its mandate to provide Temporary Housing Assistance to eligible persons, as directed by the President, and as funded by Congress.

181. As a result, defendants have violated the rights of plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, and similarly situated members of the class, under the Stafford Act and the federal regulations promulgated there under, by failing to provide them with Temporary Housing Assistance for which they are eligible.

#### **FOURTH CAUSE OF ACTION**

##### **(Failure To Provide Notice of Continued Rental Assistance Requirements – Due Process Violation)**

182. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 181 inclusive.

183. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, and similarly situated members of the class, as eligible disaster victims, have a property interest in the ability to claim and make use of Temporary Housing Assistance available under the Stafford Act and the federal regulations for an 18-month period.

184. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from employing procedures that are not reasonably designed to prevent arbitrary or erroneous delays or determinations with respect to claims for Temporary Housing Assistance, and from depriving plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

185. Defendants did not provide plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton,

and similarly situated members of the class, with proper notice and information regarding the rental assistance benefits available under the Stafford Act and the federal regulations, the limitations for use of that rental assistance, the circumstances whereby continued rental assistance is available for up to 18 months and the specific criteria for being re-certified for such continued rental assistance.

186. Because defendants did not provide such notice and information to plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix and similarly situated members of the class, they used the rental assistance on food and other necessary expenditures that FEMA has indicated are not appropriate and will have to be repaid, and thereby unknowingly impaired their ability to obtain continued rental assistance beyond the expedited three month period.

187. This amounts to a deprivation of a property interest without notice and due process and demonstrates that FEMA does not have procedures in place that are reasonably designed to prevent arbitrary and erroneous benefit delays and determinations.

188. As a result, defendants have violated the rights of plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen, Martinez, Lewis, Brown, Bradix, Johnson, M.W. Harris, Forrester and Eaton, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

#### **FIFTH CAUSE OF ACTION**

##### **(Failure To Provide Notice of Increased Temporary Housing Assistance – Stafford Act Violation)**

189. Plaintiffs McDaniel, Johnson, Tate, Winters, Forrester, Eaton and Gilliam, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 188 inclusive.

190. The Stafford Act and the federal regulations authorize FEMA to increase the amount of rental assistance or the size or number of trailers provided to an applicant where the size of the applicant's household or other circumstances necessitate such additional assistance. 42 U.S.C. § 5174(c)(1)(A); 44 C.F.R. § 206.117(b)(1)(i)(A) and (B).

191. Plaintiffs meet the eligibility requirements for receiving Temporary Housing Assistance, and applied with FEMA for rental assistance and/or a trailer.

192. FEMA failed to provide notice to plaintiffs, and similarly situated members of the class, at the time that they applied for assistance that there are circumstances which may have entitled them to claim additional assistance.

193. Plaintiffs, and similarly situated members of the class, have to date therefore been deprived of the ability to claim additional rental or trailer assistance. Plaintiff McDaniel was offered a one bedroom trailer (without sewer and utility hook-ups), which is inadequate for her four-person family.

194. Plaintiffs, and similarly situated members of the class, should not be denied or deprived of the ability to claim benefits they are eligible to receive under the Stafford Act because of FEMA's failure to provide them with basic information regarding those benefits. By not providing basic notice of the scope of Temporary Housing Assistance available, and depriving plaintiffs of that assistance because of FEMA's failure to provide notice, FEMA has violated and continues to violate its mandate to provide Temporary Housing Assistance to eligible persons, as directed by the President, and as funded by Congress.

195. As a result, defendants have violated the rights of plaintiffs Johnson, Tate, Winters, Forrester, Eaton and Gilliam, and similarly situated members of the class, under the Stafford Act and the federal regulations to receive the Temporary Housing Assistance for which they are eligible.

## SIXTH CAUSE OF ACTION

### (Failure To Provide Notice of Increased Temporary Housing Assistance – Due Process Violation)

196. Plaintiffs McDaniel, Johnson, Tate, Winters, Forrester, Eaton and Gilliam, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 195 inclusive.

197. Plaintiffs, and similarly situated members of the class, as eligible disaster victims, have a property interest in the ability to claim and make use of Temporary Housing Assistance available under the Stafford Act and the federal regulations, including the right to claim increased rental or trailer assistance based on the size of their household.

198. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from employing procedures that are not reasonably designed to prevent arbitrary or erroneous delays or determinations with respect to claims for Temporary Housing Assistance, and from depriving plaintiffs, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

199. Defendants have failed to provide plaintiffs, and similarly situated members of the class, with notice and information regarding the availability of additional rental or trailer assistance benefits for households that, because of size or other circumstances, cannot be accommodated by the “standard” amount of Temporary Housing Assistance, and have not put in place a procedure that is reasonably designed to provide eligible applicants with a meaningful opportunity to seek such additional assistance. For example, plaintiff McDaniel was offered a one bedroom trailer (without sewer and utility hook-ups), which is inadequate for her four-person family.

200. Plaintiffs, and similarly situated members of the class, have to date been denied and deprived of the ability to claim additional rental assistance which they are entitled to

claim because FEMA did not provide them with notice of their entitlement to seek such additional assistance.

201. Plaintiffs, and similarly situated members of the class, have to date been denied and deprived of the ability to claim an additional or larger trailer to which they are entitled because FEMA did not provide them with notice of their entitlement to seek such additional assistance.

202. This amounts to a deprivation of a property interest without notice and due process and demonstrates that FEMA does not have procedures in place that are reasonably designed to prevent arbitrary and erroneous benefit delays or determinations.

203. As a result, defendants have violated the rights of plaintiffs, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

#### **SEVENTH CAUSE OF ACTION**

##### **(Failure to Provide Notice of Trailer Assistance – Stafford Act Violation)**

204. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 203 inclusive.

205. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson meet the eligibility requirements for receiving a trailer, and applied with FEMA for Temporary Housing Assistance in the beginning of September.

206. FEMA did not provide adequate information and notice to plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis,

Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, regarding how to apply for a trailer, and instead made the process of applying for and obtaining a trailer arbitrary, inequitable, largely unknown, and permeated with partial information and misinformation.

207. Consequently, when plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, submitted an application for housing assistance to FEMA, they did not know to request or how to apply for trailers, and thereby were denied their right to claim and make use of a trailer under the Stafford Act and the federal regulations promulgated there under.

208. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, should not be denied or deprived of the ability to claim benefits they are eligible to receive under the Stafford Act because of FEMA's failure to provide them with basic information regarding those benefits. By not providing basic notice of the scope of Temporary Housing Assistance available, and depriving plaintiffs of that assistance because of FEMA's failure to provide notice, FEMA has violated and continues to violate its mandate to provide Temporary Housing Assistance to eligible persons, as directed by the President, and as funded by Congress.

209. As a result, defendants have violated the rights of plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez and Price, and similarly situated members of the class, under the Stafford Act and the federal regulations to receive Temporary Housing Assistance for which they are eligible.

## **EIGHTH CAUSE OF ACTION**

### **(Failure to Provide Notice of Trailer Assistance – Due Process Violation)**

210. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 209 inclusive.

211. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, as eligible disaster victims, have a property interest in the ability to claim and make use of trailer assistance benefits that are available under the Stafford Act and the federal regulations.

212. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from employing procedures that are not reasonably designed to prevent arbitrary or erroneous delays or determinations with respect to claims for Temporary Housing Assistance, and from depriving plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

213. FEMA has not provided plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, with notice and information regarding the availability of and how to apply for a trailer, and instead has made the process of applying for and obtaining a trailer arbitrary, largely unknown, and permeated with partial information and misinformation.

214. Because FEMA has failed to provide plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, with notice and information regarding the availability of trailer assistance and the process for applying for a trailer, and because FEMA has not instituted procedures for applying for trailer assistance that are reasonably designed to prevent arbitrary and erroneous determinations, plaintiff Hayward, and similarly situated members of the class, have been denied and deprived of the ability to claim trailer assistance.

215. This amounts to a deprivation of a property interest without notice and due process and demonstrates that FEMA does not have procedures in place that are reasonably designed to prevent arbitrary and erroneous benefit delays or determinations.

216. As a result, defendants have violated the rights of plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez, Price and Johnson, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

#### **NINTH CAUSE OF ACTION**

##### **(Failure To Provide Notice of Temporary Housing Assistance - Violation of the Stafford Act Non-Discrimination Provisions)**

217. Plaintiffs McDaniel, Bradix, Johnson, Tate, Winters, Forrester, M.W. Harris, Eaton and Gilliam, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 216 inclusive.

218. The Stafford Act provides that “the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of ... economic status.” 42 U.S.C. § 5151(a).

219. The federal regulations likewise require that “all personnel carrying out Federal major disaster or emergency assistance functions, including ... the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of ... economic status.” 44 C.F.R. § 206.11(b).

220. FEMA has violated and continues to violate the requirement that it administer the Temporary Housing Assistance program in an equitable and impartial manner, and without discrimination on the basis of economic status, in systematically failing and refusing to provide plaintiffs, and similarly situated members of the class, with appropriate notice and information regarding (a) the nature and extent of the Temporary Housing Assistance, including trailers, for which they may qualify; (b) the availability of rental assistance for up to 18 months; (c) the opportunity to have their Temporary Housing Assistance adjusted according to household size or a higher cost of living in certain geographic areas; (d) the requirements and procedures for continuing eligibility for rental assistance, including, but not limited to, the requirements for periodic re-certification, documenting how the rental assistance has been spent, and developing permanent housing plans; and (e) the specific reasons for denying their Temporary Housing Assistance.

221. FEMA failed to provide Plaintiff Bradix with the requirements and procedures for continuing eligibility for rental assistance. FEMA has failed to provide Plaintiff McDaniel with the specific reason she has been denied Temporary Housing Assistance, but instead has cited 3 or 4 reasons to her at different times. FEMA’s failure to provide plaintiffs, and similarly situated members of the class, with such notice and information has discriminated against lower income families, who are likely to have a greater need for Temporary Housing Assistance, and in particular need continued and increased rental assistance because of their

limited economic means and their tendency to have larger families. This has caused them to not be treated in an equitable and impartial manner relative to other recipients of Temporary Housing Assistance.

222. As a result, defendants have denied plaintiffs Johnson, Tate, Winters, Forrester, M.W. Harris, Eaton and Gilliam, and similarly situated members of the class, Temporary Housing Assistance benefits to which they are otherwise entitled, in violation of the anti-discrimination provisions of the Stafford Act and the federal regulations.

### **TENTH CAUSE OF ACTION**

#### **(Shared Household Rule – Stafford Act Violation)**

223. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Mims, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, on behalf of themselves and other members of the class, reallege and incorporate by reference paragraphs 1 through 222 inclusive.

224. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Mims, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, meet the eligibility requirements for receiving Temporary Housing Assistance and applied with FEMA for such assistance.

225. Prior to Hurricane Katrina, plaintiff Smith lived in a rooming house where he rented a room in a home where six other unrelated people also rented rooms. Plaintiff Smith and the other individuals living at that address had use of a common phone. FEMA refused to provide plaintiff Smith, and similarly situated members of the class, with Temporary Housing Assistance on the grounds that another member of his pre-disaster household already had applied for Temporary Housing Assistance. FEMA's denial of benefits was based solely on the fact that

he shared an address and phone number with other individuals who also applied for Temporary Housing Assistance, but with whom he did not share a household.

226. As a direct result of the disaster, the members of plaintiff W. Davis' household, and of similarly situated members of the class, were separated and evacuated to different regions, such that they are no longer in the same region. However, FEMA refused to provide plaintiff W. Davis, and similarly situated members of the class, with Temporary Housing Assistance because another member of his pre-disaster household, who, as a result of the hurricane is now physically separated from plaintiff W. Davis, already applied for Temporary Housing Assistance.

227. Prior to Hurricane Katrina, plaintiff McWaters rented an apartment in a house owned by her mother. Her brother also rented from her mother. They did not share a household, but lived independently. As of the Second Amended Complaint, FEMA failed to provide plaintiff McWaters, her mother or her brother with Temporary Housing Assistance on the grounds that another member of her pre-disaster household already had applied for Temporary Housing Assistance. FEMA's denial of benefits was based merely on the fact that she shared an address with other individuals who also applied for Temporary Housing Assistance, but with whom she did not share an actual household.

228. Prior to Hurricane Katrina, plaintiff Simpson shared an apartment with an unrelated individual. They have since relocated to different areas. Although plaintiff Simpson applied for FEMA assistance in mid-September, FEMA informed her for the first time on November 8, 2005, that her application for Temporary Housing Assistance is being held up because her former roommate had applied using the same phone number. FEMA failed to inform plaintiff Simpson, and similarly situated members of the class, in a timely manner of the

basis for the delay of her benefits and has failed plaintiff Simpson, and similarly situated members of the class, with Temporary Housing Assistance.

229. Prior to Hurricane Katrina, plaintiff M. Davis lived in a house with her mother. Plaintiff M. Davis and her mother were evacuated to different locations. As of the Second Amended Complaint, FEMA refused to provide plaintiff M. Davis, and similarly situated members of the class, with Temporary Housing Assistance because another member of her pre-disaster household, who, as a result of the hurricane is now physically separated from plaintiff M. Davis, already applied for Temporary Housing Assistance.

230. Prior to Hurricane Katrina, plaintiff Hood lived with his parents and paid them rent. Although plaintiff Hood registered with FEMA in the beginning of September, he learned weeks later that his application was "pending" because his parents registered using the same address. Plaintiff Hood was later told that he would not receive Temporary Housing Assistance because another member of his pre-disaster household registered using the same address.

231. These constitute misapplications by FEMA of the Shared Household Rule and unlawful denials of Temporary Housing Assistance under the Stafford Act. By not providing plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Mims, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of the class, any Temporary Housing Assistance, FEMA has violated, and continues to violate, its mandate to provide Temporary Housing Assistance to eligible persons, as directed by the President, and as funded by Congress.

232. As a result, defendants have violated the rights of plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Mims, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of

the class, under the Stafford Act and the federal regulations by denying them Temporary Housing Assistance for which they are eligible.

### **ELEVENTH CAUSE OF ACTION**

#### **(Shared Housing Rule – Due Process Violation)**

233. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Hilton, Jones and McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 232 inclusive.

234. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of the class, as eligible disaster victims, have a property interest in the ability to claim and make use of Temporary Housing Assistance benefits that are available under the Stafford Act and the federal regulations.

235. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from employing procedures that are not reasonably designed to prevent arbitrary or erroneous delays or determinations with respect to claims for Temporary Housing Assistance, and from depriving plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

236. Defendants have denied Temporary Housing Assistance to plaintiffs Smith, Simpson, McWaters, Hood, Phillips, Lewis, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of the class, because they shared a pre-disaster address or phone number with another applicant for

Temporary Housing Assistance, based upon the application of a policy and procedure that is not reasonably designed to prevent arbitrary and erroneous claims determinations, and denied these plaintiffs, and similarly situated members of the class, a meaningful opportunity to claim such Temporary Housing Assistance.

237. Defendants have summarily denied Temporary Housing Assistance to plaintiffs W. Davis, M. Davis, Campbell, Sims, Robertson and DeSalle, and similarly situated members of the class, who were evacuated to separate regions or otherwise separated from members of their pre-disaster household, based upon application of a policy and procedure that is not reasonably designed to prevent arbitrary and erroneous claims determinations, and denied these plaintiffs, and similarly situated members of the class, a meaningful opportunity to claim such Temporary Housing Assistance.

238. This amounts to a deprivation of a property interest without notice and due process and demonstrates that FEMA does not have procedures in place that are reasonably designed to prevent arbitrary and erroneous benefit determinations.

239. As a result, defendants have violated the rights of plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

240. As a result of these actions, defendants have denied plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, Hood, Phillips, Lewis, Hilton, Jones, McDaniel, Campbell, K. Harris, Forrester, Sims, Robertson and DeSalle, and similarly situated members of the class, Temporary Housing Assistance benefits to which they are otherwise entitled to claim in violation of the Stafford Act and the federal regulations.

## TWELFTH CAUSE OF ACTION

### (SBA Loan Requirement – Stafford Act Violation)

241. Plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 240 inclusive.

242. Plaintiffs Smith, Jones, Magee, Price, Allen, Eaton, Brown and DeSalle meet the eligibility requirements for receiving Temporary Housing Assistance and applied with FEMA for such assistance.

243. The Stafford Act provides that the eligibility of an individual or household to receive Temporary Housing Assistance should not in any way be dependant upon whether that individual or household has applied for or received an SBA loan. 42 U.S.C. § 5174(a)(2).

244. Plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, were told that to receive benefits they needed to apply for an SBA loan.

245. Plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class did not want to apply for an SBA loan, but did so only because FEMA instructed them it was a prerequisite to obtaining Temporary Housing Assistance.

246. In effect, FEMA has added an extra-eligibility requirement for Temporary Housing Assistance.

247. Because plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, were required to complete an SBA loan application, and the SBA loan application has not yet been processed or was not completed

properly, plaintiffs and similarly situated members of the class, have not received any Temporary Housing Benefits.

248. This constitutes a misapplication by FEMA of the Stafford Act and the federal regulations, and an unlawful denial of Temporary Housing Assistance. By not providing plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle their Temporary Housing Assistance, FEMA has violated and continues to violate its mandate to provide Temporary Housing Assistance to eligible persons, as directed by the President, and as funded by Congress.

249. As a result, defendants have violated the rights of plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, under the Stafford Act and the federal regulations to receive Temporary Housing Assistance for which they are eligible.

### **THIRTEENTH CAUSE OF ACTION**

#### **(SBA Loan Requirement – Due Process Violation)**

250. Plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 249 inclusive.

251. Plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, as eligible disaster victims, have a property interest in the ability to claim and make use of Temporary Housing Assistance benefits that are available under the Stafford Act and the federal regulations.

252. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from employing procedures that are not reasonably designed to prevent arbitrary or erroneous delays or determinations with respect to claims for Temporary

Housing Assistance, and from depriving plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Easton and DeSalle, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

253. By denying or delaying Temporary Housing Assistance for plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, based on the requirement that they complete an SBA loan application, defendants have deprived plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, of the right to claim benefits for which they are eligible.

254. This amounts to a deprivation of a property interest without notice and due process and demonstrates that FEMA does not have procedures in place that are reasonably designed to prevent arbitrary and erroneous benefit determination.

255. As a result, defendants have violated the rights of plaintiffs Smith, Jones, Magee, Price, Allen, Brown, Eaton and DeSalle, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

#### **FOURTEENTH CAUSE OF ACTION**

##### **(SBA Loan Requirement and Shared Household Rule – Violation of the Stafford Act Nondiscrimination Provisions)**

256. Plaintiffs Smith, Jones, W. Davis, McWaters, Simpson, Magee, M. Davis, Price, Hood, Allen, Phillips, Mims, Lewis, Hilton, Brown, Jones, McDaniel, K. Harris, Forrester, Sims, Eaton and DeSalle, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 255 inclusive.

257. The Stafford Act provides that “the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of ... economic status.” 42 U.S.C. § 5151(a).

258. The federal regulations likewise require that “all personnel carrying out Federal major disaster or emergency assistance functions, including ... the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of ... economic status.” 44 C.F.R. § 206.11(b).

259. FEMA denied Temporary Housing Assistance to plaintiffs Smith, W. Davis, McWaters, Simpson, M. Davis, Price, Hood, Phillips, Mims, Lewis, Hilton, Jones, McDaniel, K. Harris, Forrester, Sims, Eaton and DeSalle, and similarly situated members of the class, because they shared a pre-disaster address or phone number with other disaster assistance applicants with whom they did not actually share a household.

260. FEMA required plaintiffs Smith, Jones, Magee, Price, Allen, Brown and DeSalle, and similarly situated members of the class, to complete an SBA loan application to receive Temporary Housing Assistance and thereby forced them to comply with an extra-eligibility requirement that is not in the Stafford Act.

261. FEMA has violated and continues to violate the requirement that it administer the Temporary Housing Assistance program in an equitable and impartial manner, and without discrimination on the basis of economic status, by (a) applying its Shared Household Rule in a manner that wrongfully denies or delays Temporary Housing Assistance to lower income disaster victims who are otherwise eligible for such assistance; (b) requiring that applicants provide their income and complete an SBA loan application as a condition of applying for and receiving Temporary Housing Assistance; and (c) inconsistently applying its Shared Household Rule and the requirement that an SBA loan application be completed, which have been applied non-uniformly at different stages of the housing assistance programs.

262. As a result, defendants have deprived plaintiffs Smith, Jones, W. Davis, McWaters, Simpson, Magee, M. Davis, Price, Hood, Allen, Phillips, Mims, Lewis, Hilton, Brown, Jones, McDaniels, K. Harris, Forrester, Sims, Eaton and DeSalle, and similarly situated members of the class, of Temporary Housing Assistance benefits to which they are otherwise entitled to claim in violation of the anti-discrimination provisions of the Stafford Act and the federal regulations.

### **FIFTEENTH CAUSE OF ACTION**

#### **(Denials And Delays of Temporary Housing Assistance – Violation of the Stafford Act Nondiscrimination Provisions)**

263. Plaintiffs Phillips, Mims, Lewis, Hilton, Chattmon, Hill, Bartley, Jones, McDaniel, Hill, Bartley, Craft, K. Harris, Johnson, M.W. Harris, Winters, Forrester, Robertson, Eaton and Gilliam, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 262 inclusive.

264. The Stafford Act provides that “the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of ... economic status.” 42 U.S.C. § 5151(a).

265. The federal regulations likewise require that “all personnel carrying out Federal major disaster or emergency assistance functions, including ... the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of ... economic status.” 44 C.F.R. § 206.11(b).

266. FEMA has violated and continues to violate the requirement that it administer its housing programs, including the Temporary Housing Assistance programs and Short-Term Lodging Program, in an equitable and impartial manner, and without discrimination

on the basis of economic status, by (a) delaying for weeks and months in providing Temporary Housing Assistance to eligible, lower income disaster victims who do not have the means to withstand the delays; (b) failing to provide or wrongfully denying housing assistance to lower income victims who are eligible for such assistance and do not have the means to meet their housing and other basic needs without disaster relief; (c) failing to provide continuing rental assistance to lower income victims who are eligible for continuing assistance and do not otherwise have the means to meet their housing needs; (d) closing applicants' cases and therefore denying Temporary Housing Assistance merely because applicants, who cannot afford to travel, are unable to meet with inspectors at their pre-disaster homes; (e) terminating funding for the hotels and motels without providing continuing alternative assistance for which they qualify and (f) otherwise failing to provide Temporary Housing Assistance or Short-Term Lodging in a manner that does not discriminate against lower income victims otherwise eligible for and in immediate need of housing assistance.

267. As a result, defendants have deprived plaintiffs Hill, Bartley, Hilton, Chatmon, Jones and McDaniel, Craft, K. Harris, Johnson, M.W. Harris, Winters, Forrester, Robertson, Eaton and Gilliam, and similarly situated members of the class, of Temporary Housing Assistance benefits to which they are otherwise entitled to claim, in violation of the anti-discrimination provisions of the Stafford Act and the federal regulations.

#### **SIXTEENTH CAUSE OF ACTION**

##### **(Termination of Short-Term Lodging Program – Due Process Violation)**

268. Plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill, Bartley, Hilton, Brown, McDaniel and Winters, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 267 inclusive.

269. Plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill, Bartley, Hilton, Brown, McDaniel and Winters, and similarly situated members of the class, as eligible disaster victims, have property interests as tenants in FEMA subsidized hotel/motel units and qualified applicants for or recipients of alternative Temporary Housing Assistance, and in the right to continuing and orderly housing assistance.

270. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from depriving plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill, Bartley, Hilton, Brown, McDaniel and Winters, and similarly situated members of the class, of their property interests without adequate and timely notice of the Temporary Housing Assistance for which they qualify or may qualify and appropriate procedures for determining their eligibility for and obtaining such Assistance prior to FEMA's termination of the Short-Term Lodging Program.

271. FEMA has failed to provide plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill, Bartley, Hilton, Brown, McDaniel and Winters, and similarly situated members of the class, prior to terminating Short-Term Lodging Program, with proper information and procedures for determining their eligibility or continuing eligibility for Temporary Housing Assistance so that continuing assistance is assured.

272. FEMA's failure to provide plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill, Bartley, Hilton, Brown, McDaniel and Winters, and similarly situated members of the class, prior to terminating the Short-Term Lodging Program, with proper information and procedures regarding eligibility for alternative and continuing Temporary Housing Assistance prevents or frustrates plaintiffs and similarly situated members of their class in obtaining alternative Temporary Housing Assistance, resulting in homelessness and wrongful displacements into inadequate housing.

273. This amounts to a deprivation of a property interest without notice and due process.

274. As a result, defendants have violated the rights of plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill, Bartley, Hilton, Brown, McDaniel and Winters, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

### **SEVENTEENTH CAUSE OF ACTION**

#### **(Denials and Delays of Housing Assistance – Violation of the Administrative Procedure Act**

275. Plaintiffs, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 274 inclusive.

276. Defendants may not unreasonably delay or unlawfully withhold agency action. 5 U.S.C. § 706(1). Defendants' extensive delays in providing Assistance to plaintiffs and similarly situated members of their class constitute unreasonable delays and action unlawfully withheld in violation of 5 U.S.C. § 706(1). Defendants' denials of Assistance based upon their Shared Household Rule and SBA loan application requirement constitute unlawfully withheld agency action in violations of 5 U.S.C. § 706(1).

277. Defendants may not take agency action which is arbitrary, capricious, abuse of discretion or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). Defendants' extensive delays in providing Temporary Housing Assistance to plaintiffs and similarly situated members of their class are arbitrary, capricious, and an abuse of discretion in violation of 5 U.S.C. § 706(2)(A). Defendants' denials of Temporary Housing Assistance based upon their Shared Household Rule and their SBA loan application requirements and their inconsistent application of these rules and requirements are arbitrary, an abuse of discretion and not in accordance with law in violation of 5 U.S.C. § 706(2)(A).

278. Defendants may not take agency action which is in excess of statutory authority. 5 U.S.C. § 706(2)(C). Defendants' denials of Temporary Housing Assistance based upon their Shared Household Rule and SBA loan application requirement, their inconsistent application of these rules and requirements, and their extensive delays in providing Assistance to plaintiffs and similarly situated members of their class violate 5 U.S.C. § 706(2)(C).

279. Defendants must abide by the rulemaking requirements, including providing notice and the opportunity for comment, in 5 U.S.C. § 553 and 42 U.S.C. § 5165c. Without following these rulemaking requirements, defendants are adopting and implementing policies, rules and regulations, including, but not limited to, their termination of hotel/motel funding, which apply class-wide and may result in the reduction of assistance to plaintiffs and similarly situated members of their class in violation of 5 U.S.C. § 553 and 42 U.S.C. § 5165c.

### **INJUNCTIVE RELIEF**

280. Plaintiffs reallege and incorporate by reference all previous paragraphs 1 through 279 inclusive.

281. By adopting the policies and practices set forth above, defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey have caused and will cause plaintiffs and members of the class irreparable harm and injury, in that eligible persons have been and will continue to be denied Temporary Housing Assistance as required under federal law.

282. Without the provision of actual housing, the named plaintiffs and similarly situated members of the class, are living in cars, tents, abandoned buildings, uninhabitable dwellings, or moving from place to place and unable to obtain affordable housing. They, their children, and loved ones are subject to the fact or constant threat of homelessness or worse, directly causing harm to their health, welfare, and well-being.

283. To the extent that the named plaintiffs and low-income members of the class must pay rent for habitable or uninhabitable dwellings, but have been denied assistance or have been required to repay Temporary Housing Assistance or to return mobile homes already provided based on a finding that another person in the pre-disaster housing unit applied for assistance, plaintiffs and members of the class are deprived of the means to purchase other necessities of life such as food and clothing. Many plaintiffs and their families, and similarly situated class members, have already been forced to live in unsafe and unsanitary conditions, which has caused medical complications, and many others will be forced to live in those intolerable conditions.

284. The lack of housing assistance for plaintiffs and their families, and similarly situated class members, also has served to split families and former households apart.

285. Defendants' continued failure and refusal to provide housing assistance to thousands of individuals and families is causing and will likely further cause destitution, homelessness, hunger, and stress and, as a consequence, increase the risk of illness and danger in their lives.

286. Defendants' wrongful conduct also results in significant costs to the public and a waste of taxpayer funds. The loss of critically needed housing assistance harms those communities which have been literally destroyed by Hurricane Katrina. It also harms many other communities throughout the country which have reached out to assist those who have been displaced and evacuated and are now faced with increased homelessness and, consequently, a higher incidence of persons with mental and emotional distress, illness, diseases, and substance abuse.

287. Plaintiffs have no remedy at law adequate to prevent the continuing wrong and irreparable injury caused by defendants' acts and omissions.

## DECLARATORY RELIEF

288. An actual controversy exists between plaintiffs and defendants in that plaintiffs contend that the policies and practices set forth in paragraphs 1 to 287, *supra*, violate the Stafford Act, the federal regulations promulgated thereunder, and the United States Constitution. Unless there is a judicial declaration of plaintiffs' rights, defendants' unlawful conduct will continue.

WHEREFORE, plaintiffs and members of the class pray for the following relief:

- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from applying the "Shared Household Rule" to deny Temporary Housing Assistance to applicants based solely on the fact that another applicant with the same address or phone number has applied for housing assistance, when (a) the two applicants are unrelated, (b) the two applicants are related but have separate economic households, (c) the two applicants are no longer able to live together as a result of Hurricane Katrina because of geographical separation or other circumstances, or (d) the first applicant for assistance did not actually reside pre-disaster with the second applicant and thus obtained assistance based upon a potential fraud;
- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from denying eligible persons who submitted a properly completed and pending application for Temporary Housing Assistance the \$2,358 in housing assistance or the trailer for which they applied;
- For a preliminary and permanent injunction mandating defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey to provide to persons who submitted an application for Temporary Housing Assistance, but have been subsequently denied, a reason for such denial;
- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from taking any efforts to recoup from recipients portions of the rental assistance not used for rent, and from denying further assistance to applicants on the ground that they applied portions of their rental assistance monies to expenditures other than rent;
- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from asking applicants for housing assistance to complete SBA loan applications or apply for an SBA loan as a prerequisite to applying for or receiving FEMA housing assistance, and from inquiring into the income of applicants in connection with processing applications for Temporary Housing Assistance;

- For a preliminary and permanent injunction mandating that defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey provide meaningful notice to all applicants, retroactively and on a going forward basis, of (a) their right to seek continuation of rental assistance beyond an initial three month period and the criteria and conditions for such continued rental assistance, (b) the expenditures for which the rental assistance can be used, (c) their right to seek a trailer and the procedure and timing for obtaining trailers, and (d) their right to seek additional assistance based upon the size of their families and what is required to obtain such increased assistance;
- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from closing shelters that are presently housing victims of Hurricane Katrina who have applied or seek to apply with FEMA for Temporary Housing Assistance, unless adequate substitute housing is provided for those persons;
- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from closing any DRCs in any location, and mandating them to maintain FEMA's 800 numbers with a sufficient number of employees capable of assisting victims in their efforts to apply for, understand and obtain FEMA housing assistance;
- For a preliminary and permanent injunction restraining defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey from terminating funding for the Short-Term Lodging Program until they have received the Temporary Housing Assistance to which they are entitled and alternative housing is provided.
- For an order requiring defendants FEMA, DHS, Chertoff, Paulison, Allen, Burris, Castleman, Sherman, Carwile, and Lockey:

(a) to continue to accept applications for Temporary Housing Assistance at DRCs by telephone and online for a reasonable period of time following issuance of injunctive relief to enable appropriate application by the class of people unlawfully excluded or discouraged from applying for Temporary Housing Assistance, and

(b) to submit a plan to the court concerning how they (1) will ensure that in the future all eligible applicants for Temporary Housing Assistance who have applied for such assistance receive it within a reasonable period of time; (2) will renotify and reprocess those applications or applicants who were denied Temporary Housing Assistance based at least in part on the finding that another applicant with the same address or phone number had applied for

housing assistance when (i) the two applicants are unrelated, (ii) the two applicants are related but have separate economic households, (iii) the two applicants are no longer able to live together as a result of Hurricane Katrina because of geographical separation or other circumstances, or (iv) the first applicant for assistance did not actually reside pre-disaster with the second applicant and thus obtained assistance based upon a potential fraud; (3) will renotify and reprocess those applications or applicants who were denied Temporary Housing Assistance based at least in part on a failure to provide their income information or complete an SBA loan applications; (4) will renotify applicants concerning all forms of temporary assistance available and the criteria and conditions applicable to such assistance, including (i) their right to seek continuation of rental assistance beyond an initial three month period and the criteria and conditions for such continued rental assistance, (ii) what expenditures the rental assistance can be used for, (iii) their right to seek a trailer and the procedure and timing for obtaining trailers, and (iv) their right to seek additional assistance based upon the size of their families and what is required to obtain such increased assistance, and (v) how defendants will reprocess applications for assistance based on this notification; (5) will notify applicants from whom they have sought or received repayment of rental assistance or denied continued rental assistance based at least in part on a finding that the applicant used those monies for expenditures other than rent, of the illegality of defendants' practices and of the applicants' right to return of the repayment and recertification for continued rental assistance; and (6) will terminate the Short-Term Funding Program in a manner that ensures continuing assistance for beneficiaries of that program who qualify for Temporary Housing Assistance;

- For a declaratory judgment that defendants' policies and practices of denying housing assistance and seeking repayment of such assistance based on a finding that another person with the same address or phone number applied for assistance violate the Stafford Act, 42 U.S.C. §§ 5151, 5174, the federal regulations promulgated

thereunder, and the Due Process Clause of the Fifth Amendment to the United States Constitution;

- For a declaratory judgment that defendants' policies and practices of denying continuation of rental assistance and seeking repayment of such assistance based on a finding that monies were used for expenditures other than rent, where defendants failed to provide adequate notice regarding the conditions and criteria for use and continuation of rental assistance violate the Stafford Act, 42 U.S.C. §§ 5151, 5174, the federal regulations promulgated thereunder, and the Due Process Clause of the Fifth Amendment to the United States Constitution;
- For a declaratory judgment that defendants' policies and practices of asking applicants for housing assistance to provide their income and/or complete an SBA loan application as a prerequisite to obtaining Temporary Housing Assistance violate the Stafford Act, 42 U.S.C. §§ 5151, 5174, the federal regulations promulgated thereunder, and the Due Process Clause of the Fifth Amendment to the United States Constitution;
- For a declaratory judgment that defendants' policies and practices of failing to provide applicants notice of (a) their right to seek continuation of rental assistance beyond an initial three month period and the criteria and conditions for such continued rental assistance, (b) what expenditures that the rental assistance can be used for, (c) their right to seek a trailer and the procedure and timing for obtaining trailers, and (d) their right to seek additional assistance based upon the size of their families and what is required to obtain such increased assistance, violate the Stafford Act, the federal regulations promulgated thereunder, and the Due Process Clause of the Fifth Amendment to the United States Constitution;
- For an order allowing this case to proceed as a class action;
- For costs of suit and reasonable attorneys fees; and
- For such other relief as this Court may deem just and proper.

Dated: New York, New York  
February 15, 2006

Respectfully Submitted,

SCHULTE ROTH & ZABEL LLP

By: 

Howard O. Godnick, Esq. - Admitted Pro Hac Vice  
Daniel L. Greenberg, Esq. - Admitted Pro Hac Vice  
Sena Kim-Reuter, Esq. - Admitted Pro Hac Vice  
919 Third Avenue  
New York, New York 10022  
(212) 756-2000

THE PUBLIC INTEREST LAW  
PROJECT

Steve Ronfeldt, Esq.  
449 15<sup>th</sup> Street, Suite 301  
Oakland, California 94612  
(510) 891-9794

NATIONAL LAW CENTER ON  
HOMELESSNESS & POVERTY

Maria Foscarinis, Esq.  
Rebecca K. Troth, Esq.  
1411 K Street, NW, Suite 1400  
Washington, DC 20005  
(202) 638-2535

JOHN K. PIERRE, ATTORNEY AT LAW

John K. Pierre, Esq. - Bar No. 20328  
2900 West Fork Drive  
Suite 200  
Baton Rouge, Louisiana 70816  
(225) 295-5638

LAWYERS COMMITTEE FOR  
CIVIL RIGHTS UNDER LAW

John C. Brittain, Esq.  
1401 New York Avenue, NW  
Suite 400  
Washington, DC 20005-2124

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing documents was served on all counsel of record by electronic mail on this 15th day of February, 2006.

  
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SENA KIM-REUTER