

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

-----X
BEATRICE B. McWATERS; FLORENCE :
JACKSON; CALVIN DAVIS; REGINALD :
JONES; VAN PATIN; JOHN HUBBARD; :
BILLY SMITH; THURMOND PRICE; KEIVA :
MELISSA COLOMB; RUSSELL HAYWARD; :
MARY PAT VAN TINO; PAMELA JACKSON; :
WILLIAM DAVIS; ELIZABETH SIMPSON; :
CHRIS DAVIS; LYMAN SCOTT; MICHELLE :
DAVIS; JENNIFER SAMPEY; DAVID MAGEE; :
KEISHAN GOODMAN; SHAWN ALLEN; :
TIMOTHY HOOD; MICHAEL MARTINEZ; :
CHARLES HILL, JR.; and LENORA BARTLEY; :
On Behalf Of Themselves And All Those Similarly :
Situated, :

Plaintiffs,

- against -

FEDERAL EMERGENCY MANAGEMENT :
AGENCY; DEPARTMENT OF HOMELAND :
SECURITY; MICHAEL CHERTOFF, Secretary :
of Department of Homeland Security; DAVID :
PAULISON, Interim Director, Federal :
Emergency Management Agency; THAD W. :
ALLEN, Principal Federal Official, Federal :
Emergency Management Agency; KENNETH O. :
BURRIS, JR., Regional Director, Federal :
Emergency Management Agency; RON :
CASTLEMAN, Regional Director, Federal :
Emergency Management Agency; RON :
SHERMAN, Federal Coordinating Officer, :
Federal Emergency Management Agency; :
WILLIAM CARWILE, Federal Coordinating :
Officer, Federal Emergency Management :
Agency; BILL LOCKEY, Federal Coordinating :
Officer, Federal Emergency Management :
Agency; and their successors in office, :

Defendants. :

CIVIL NO.: 05-5488 (SRD)

**SECOND AMENDED
COMPLAINT -
CLASS ACTION
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

PRELIMINARY STATEMENT

“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.”

Terry Ebbert, New Orleans Homeland Security Chief, September 1, 2005

1. The federal agency charged by statute to care for Americans who are victims of natural disasters, the Federal Emergency Management Agency (“FEMA”), failed to fulfill its mandate before, during and after Hurricane Katrina struck Louisiana, Mississippi, and Alabama. As a result, more than two months after the tragedy, thousands of Americans continue to be victimized, this time by bureaucratic inaction, indifference, and incompetence. FEMA has failed to provide temporary housing assistance to these disaster victims in violation of the plain requirements of federal law. The poor and vulnerable – including children, the elderly, and the disabled – are suffering the most.

2. As of this late date, FEMA has:

- Failed to provide any temporary housing assistance to certain individuals and families, including those with disabilities, who applied for help more than two months ago;
- Failed to provide basic information to disaster victims regarding the scope and conditions of the available temporary housing assistance, including how they can continue to receive financial assistance beyond the initial three month period;
- Denied temporary housing assistance to individuals who lived at the same address, but in a separate home as another, unrelated, person who also applied for housing assistance;
- Refused to provide additional temporary housing assistance to families that, because of their size, were entitled to more than the standard amount of housing assistance;
- Required disaster victims to apply for Small Business Administration (“SBA”) loans as a condition for obtaining FEMA temporary housing assistance;
- Imposed retroactively inconsistent rules regarding funds some victims have already received; and

- Announced its intention to terminate the hotel/motel direct payment program on an arbitrary date, and prior to the participants in that program receiving temporary housing assistance, which will cause those evacuees of hurricane Katrina to be without any place to live.

3. There is no excuse for these failures by FEMA, which demand redress and relief. The dimensions of Hurricane Katrina and its aftermath were neither unpredictable nor unexpected. Indeed, FEMA itself participated in emergency preparedness drills predicated on a storm of precisely this dimension and magnitude, striking exactly where it hit, and leaving this many people in need of temporary housing.

4. Many more fortunate individuals (some of whom were, themselves, victims of Hurricane Katrina) provided aid to those less fortunate. But extraordinary individual acts of generosity are no substitute for government action; nor are they a defense for government inaction.

5. Our government has shown itself capable, in a short amount of time, of deploying and housing more than one hundred thousand troops, in the arid deserts of Iraq, in an area devoid of electricity, to help the Iraqi people. It was able, virtually overnight, to send massive amounts of aid to tsunami victims halfway around the world. No less should be extended to its own people, on their home soil, in the wake of a national disaster.

6. This action, therefore, is brought by 25 named plaintiffs, on their own behalf and on behalf of a class of people similarly situated, seeking an order that FEMA obey the laws put into place to address the problems associated with this kind of tragedy, and provide temporary housing assistance to those victims eligible to receive it. Plaintiffs seek injunctive and declaratory relief, requiring defendants to provide housing assistance to eligible applicants and develop and implement procedures to communicate and implement the statutory relief that victims of Hurricane Katrina are entitled to, including, but not limited to:

- The immediate distribution of temporary housing assistance to all victims who have applied for and are eligible for such assistance;
- The provision of immediate safe housing (trailers or otherwise) for those victims who remain in shelters, tents, or makeshift housing;
- The creation of guidelines for registration, eligibility, and receipt of temporary housing assistance that are clear, understandable, and take into account the mental and physical limitations of the applicants, including the elimination of burdensome and complex requirements such as requiring victims to fill out SBA loan applications;
- The creation and/or maintenance of additional disaster recovery centers (“DRCs”) and FEMA’s 800 number, staffed with a sufficient number of employees capable of assisting victims in their efforts to apply for, understand, and obtain FEMA benefits;
- The development and distribution of communication methods to reach victims lacking knowledge of, or access to, computers or phones;
- The development and distribution of guidelines that clearly detail how to obtain continued financial assistance beyond the initial three month period;
- The development and distribution of guidelines for the granting of adjustments to take into consideration family size and other factors, including pre-Katrina housing arrangements;
- The elimination of unfair, retroactive rules regarding the use of funds already received;
- The continuation of FEMA’s hotel/motel direct payment program until all individuals have received their temporary housing assistance and found alternative housing; and
- The suspension of FEMA’s policy of allowing and/or promoting the eviction of residents from trailer parks and the destruction of their trailers to make room for FEMA trailers.

7. Relief is sought because it appears that, absent judicial oversight, the victimization will continue.

Overview

8. Just before dawn on August 29, 2005, Hurricane Katrina struck the Gulf Coast Region of the United States, making initial landfall in southeastern Louisiana before moving across Mississippi and into Alabama. Hundreds of thousands of people, many of them poor and illiterate, were forced to evacuate their homes. Soon thereafter, \$62 billion of federal

assistance was approved by Congress, to be administered primarily by FEMA, much of it earmarked for the temporary housing needs of disaster victims.

9. Hurricane Katrina was an act of nature, but its inhumane consequences were predicted and, thus, avoidable. In July 2004, FEMA participated in “Hurricane Pam,” an emergency preparedness drill predicated on a storm striking in the same place, resulting in similar damage to that caused by Katrina. The purpose of this drill was to gain information that would enable FEMA and state agencies to plan and prepare for the probable damage and subsequent events that would surely result from an actual hurricane.

10. FEMA and its leadership did not heed the warnings of Hurricane Pam or implement any of the precautions it called for that, at a minimum, would have mitigated some of the heartbreaking personal anguish and suffering that continues to this day.

11. The consequences of those, and other acts and omissions, are still being felt by thousands of individual victims of Hurricane Katrina in Louisiana, Mississippi, and Alabama, whose homes were destroyed or rendered uninhabitable or inaccessible as a direct result of the storm.

12. Federal law requires FEMA to provide assistance to disaster victims by providing, among other things, financial assistance to rent housing, or a trailer or mobile home. This assistance is guaranteed by the Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq. (the “Stafford Act”). The Stafford Act defines the type and scope of federal assistance available in the event of a declared disaster, including temporary housing assistance, and sets the conditions for obtaining that assistance.

13. More than two months after Hurricane Katrina struck, thousands of disaster victims still have not received their desperately needed assistance from FEMA and, as a result, continue to be victimized and to suffer harm each and every day, this time at the hands of

their own federal government. Others received some amounts of aid, but under rules that kept changing. Now those individuals find themselves supposedly indebted to the government for having used that assistance to replace the necessities of life. Many other disaster victims, most of whom lived at or below the poverty line, are being denied assistance based upon a mechanical or arbitrary presumption of fraud which has no basis in fact. After already seeing their communities, homes, and possessions destroyed, disaster victims are now forced to sleep on pavements, in cars, and in tents, or are bounced from shelter to shelter, seemingly abandoned and forgotten by FEMA.

14. Each day housing assistance is denied or delayed to them, plaintiffs suffer irreparable harm in myriad ways. In addition to the psychological toll of having no place to live and being uncertain how or where they can rebuild their lives, many victims of Hurricane Katrina are forced to live in unsafe and unsanitary conditions. Many victims who were displaced and evacuated to distant places around the country are in unfamiliar regions without housing assistance or the means to return to their communities. Families that were separated as a result of the disaster do not have the means to reunite. Defendants' continued failure and refusal to provide housing assistance to thousands of victims is causing, and will likely further cause, destitution, homelessness, hunger, stress and, as a consequence, increase the risk of illness, instability, and danger in their lives. As stated by Ronald D. Utt, a former senior official at the Department of Housing and Urban Development, about FEMA's failure to provide necessary relief to the hurricane's victims: "[t]his is not incompetence. This is willful. That is the only way I can explain it."

15. Plaintiffs are victims of Hurricane Katrina whose homes were destroyed or rendered uninhabitable or inaccessible as a result of the hurricane. They challenge the failure of defendants to provide them with temporary housing assistance as required under the Stafford

Act, 42 U.S.C. § 5174, and the federal regulations promulgated thereunder, on behalf of themselves and on behalf of a class of people similarly situated, and seek an order that FEMA obey the laws put into place to address the problems associated with this foreseeable tragedy.

16. Accordingly, plaintiffs seek declaratory and injunctive relief requiring defendants to abide by the requirements of the Stafford Act, the federal regulations promulgated thereunder, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment to the United States Constitution, with respect to the provision of temporary housing assistance to the victims of Hurricane Katrina.

I. JURISDICTION

17. Jurisdiction of this court against all defendants is invoked pursuant to 28 U.S.C. §§ 1331, 1361 and 5 U.S.C. §§ 701 *et. seq.*

II. BASIS FOR RELIEF

18. This action and the relief requested are authorized under 28 U.S.C. § 1361, 28 U.S.C. § 2201, 28 U.S.C. § 2202, 28 U.S.C. § 2412(b), 42 U.S.C. §§ 5151, 5174, and 5 U.S.C. §§ 701 *et. seq.* and the federal regulations promulgated thereunder, and the Due Process Clause of the Fifth Amendment to the United States Constitution.

19. Under the Stafford Act, victims of a disaster are eligible for “financial or other assistance” to meet their housing needs if they have been “displaced from their pre-disaster primary residences,” or their pre-disaster primary residences “are rendered uninhabitable as a result of damage caused by a major disaster.” 42 U.S.C. § 5174(b)(1).

20. One type of aid authorized by the Stafford Act is temporary housing assistance, which consists of (i) “financial assistance” and (ii) “direct assistance” (hereinafter referred to as “Temporary Housing Assistance”). 42 U.S.C. § 5174(c). “Financial assistance,” sometimes known as “rental assistance,” is supposed to enable “individuals or households to rent

alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.” 42 U.S.C. § 5174(c)(1)(A).

21. “Direct assistance” authorized by the Stafford Act, sometimes known as “trailer assistance,” enables disaster victims to receive actual temporary housing units, such as a trailer or mobile home. Trailer assistance is available to victims who cannot use rental assistance because of, for example, a lack of rental housing. 42 U.S.C. § 5174(c)(1)(B)(i).

22. The Stafford Act authorizes rental and trailer assistance to both pre-disaster renters and homeowners.

23. Temporary Housing Assistance is available for 18 months from the date that the President declared a disaster, but may be extended beyond that time. 44 C.F.R. § 206.110(e). This 18-month period applies to both rental and trailer assistance.

24. Applications for Temporary Housing Assistance, and for the distribution of federal benefits pursuant to the Stafford Act, must be done in “an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.” 42 U.S.C. § 5174(a).

25. On August 27, 2005, President Bush declared a State of Emergency in the State of Louisiana. Similar declarations were issued for Mississippi and Alabama on August 28. Those declarations required FEMA to provide assistance under the Stafford Act. FEMA’s duty to provide Temporary Housing Assistance to victims of Hurricane Katrina was mandatory, and not discretionary.

26. FEMA’s failure to respond in the face of the presidential declaration – the triggering mechanism by which the Stafford Act is invoked – is a violation of law, which, if allowed to stand, would render the presidential directive meaningless. No administrative official at FEMA has the authority to overrule the President.

III. PARTIES

A. Individual Plaintiffs

27. Plaintiff Beatrice B. McWaters has not received any Temporary Housing Assistance from FEMA even though she applied 2 months ago. Ms. McWaters was a resident of Orleans Parish when Hurricane Katrina struck. She and her brother lived in a home that her mother owned, and paid her approximately \$1,000 per month in rent. Her mother is 93 years old, and her brother is 61 years old and disabled. Her pre-disaster home is now uninhabitable. On approximately September 2, 2005, Ms. McWaters went to the Kelly USA shelter in San Antonio, Texas to apply for FEMA benefits. On October 10, Ms. McWaters was told by a FEMA worker that she, her brother, and her mother had all claimed to be owners of the same residence and that there was the appearance of fraud. Ms. McWaters tried to clear up the misunderstanding over the phone with the FEMA worker without success. The next day, October 11, she returned to the Kelly USA shelter and attempted to clarify the situation in person. On October 26, Ms. McWaters received a call from FEMA and was told that she, her mother, and her brother all had been suspended or eliminated from the FEMA system. Then, on approximately November 2, Ms. McWaters received a call from a FEMA worker telling her that she could get a trailer in New Orleans. Ms. McWaters explained that, by doctor's orders, she was unable to travel. The FEMA worker told her it would be noted in the file. The FEMA worker did not offer her rental assistance. To date, Ms. McWaters has not received any housing assistance from FEMA.

28. Plaintiff Florence Jackson has not received any Temporary Housing Assistance from FEMA even though she applied over 2 months ago. Ms. Jackson is 62 years old, and was a resident of Orleans Parish, where she lived with her 42-year old son, who suffers from epileptic seizures and cerebral palsy. Ms. Jackson has a herniated disk and sciatica. Both

Ms. Jackson and her son are on disability. Like countless others, their home was rendered uninhabitable by Hurricane Katrina. Ms. Jackson and her son had no way to evacuate from New Orleans. She and her son were stranded in their apartment as the storm roared through New Orleans. After the storm, they watched the water rise, saw people on the interstate dying, and watched futilely as rescue workers ignored their cries for help. It was not until five days later, on September 2, 2005, that the government evacuated Ms. Jackson and her son by helicopter. They left their home with only the clothing on their back, and some essential paperwork that Ms. Jackson was able to quickly pull together. Left on a crowded, open field with little or no security, Ms. Jackson found a piece of cardboard to sit on and another evacuee generously gave up his cot for her son. While her son slept, Ms. Jackson watched, guarding herself and her son. She and her son were eventually herded onto a bus, and taken to the airport where, wet and physically exhausted, they waited for further direction. Later, when people were lined up for a plane, Ms. Jackson found a chair for her son, who was no longer able to walk, and pushed him inch by inch along the line until they finally boarded a flight – destination unknown.

Ms. Jackson and her son were flown to San Antonio, Texas and then taken to the Kelly USA DRC, where they waited standing in line for 7 hours to register. They were told if they left the line for any reason, they would not be registered. Ms. Jackson waited, all the while praying that her son would not have an epileptic seizure. Finally, Ms. Jackson and her son were taken to the Kelly USA shelter where, for the first time in days, they were able to get out of their wet clothes. There, Ms. Jackson was diagnosed with pneumonia and an intestinal virus, brought on by the wet clothes and the exposure to germs during the evacuation. It was not until September 5, 2005 – a week after Hurricane Katrina had made landfall – that the Kelly USA DRC was equipped with telephones and computers. Using those phones, Ms. Jackson was able to register for FEMA

assistance. Since then, Ms. Jackson has repeatedly called FEMA to inquire about rental assistance and each time is told that her application for housing assistance is “pending.”

29. Plaintiff Calvin Davis, Jr. has not received any Temporary Housing Assistance from FEMA even though he applied 2 months ago. Mr. Davis was a resident of Orleans Parish. On August 29, 2005, he was evacuated and brought to the River Center shelter in Baton Rouge, Louisiana, where he lived for the next six weeks. On approximately September 5, 2005, Mr. Davis registered with FEMA for Temporary Housing Assistance. FEMA workers at the River Center shelter told Mr. Davis that he would receive a check for \$2,358 in rental assistance. Approximately one month later, Mr. Davis went to the DRC near the shelter, where he was told that his rental assistance was still “pending.” On October 14, 2005, the River Center shelter closed and Mr. Davis was moved to the Red Cross shelter in Baker, Louisiana. When he is able to get through to FEMA’s 800-number, he is simply told that his application is still “pending.” Mr. Davis still has not received his housing assistance from FEMA.

30. Plaintiff Reginald Jones has yet to receive any Temporary Housing Assistance. He was a resident of Plaquemines Parish when Hurricane Katrina struck and destroyed his home. He was evacuated on August 29, 2005, to the Belle Chasse Community Center in Belle Chasse, Louisiana. After a week, Mr. Jones was moved to the Melville Community Center in Melville, Louisiana, where he finally was able to apply for FEMA benefits. Mr. Jones was then forced to evacuate from Melville because of Hurricane Rita, and spent three days in a Red Cross Shelter in Monroe, Louisiana. After Hurricane Rita passed he was instructed to leave the shelter in Monroe and return to the River Center shelter in Baton Rouge, Louisiana. In mid-October, Mr. Jones went to the DRC in Belle Chasse to apply for a trailer. That same day, Mr. Jones was told that, to receive benefits, he would need to complete

an SBA loan application, which he did. On October 14, 2005, the River Center shelter closed and Mr. Jones was again moved, this time to the Red Cross shelter in Baker, Louisiana. He has repeatedly asked FEMA about the status of his application for a trailer and has been told that there is no facility available on which he may put a trailer.

31. Plaintiff Van Patin was a resident of Baton Rouge, Louisiana when Hurricane Katrina struck. His pre-disaster home is uninhabitable due to Hurricane Katrina. Mr. Patin had a leg amputated and is wheelchair bound. In early September, Mr. Patin applied for FEMA housing assistance. He was told by FEMA that he would receive a handicap-accessible trailer, that the trailers were on-site and that they were in the process of installing ramps for the trailers. To date, he has not received a trailer, any Temporary Housing Assistance or any further information from FEMA regarding his request for housing assistance.

32. Plaintiff John Hubbard was a resident of Orleans Parish when Hurricane Katrina struck. His pre-disaster home, in which he lived with his sister and her four daughters, was destroyed. Mr. Hubbard is disabled and illiterate, and therefore applied for housing assistance directly with a FEMA representative at the River Center Shelter in Baton Rouge. To date, he has not received any Temporary Housing Assistance or any further information from FEMA regarding his request for housing assistance.

33. Plaintiff Billy Smith was a resident of Orleans Parish when Hurricane Katrina struck and destroyed his home. He rented a room in a building where six other men also lived and shared a phone number. On September 2, 2005, Mr. Smith applied with FEMA for Temporary Housing Assistance. The FEMA worker told him that his application would be frozen because someone else had applied for benefits with the same phone number. Within the week, Mr. Smith called FEMA again to check the status of his application and was accused of making multiple applications. At about the end of September, Mr. Smith received a packet of

information from FEMA, which stated that he needed to fill out an SBA loan to receive FEMA benefits, which he submitted the next day. Mr. Smith has since been told by FEMA that his application is still “pending.” He is currently living at the Red Cross Shelter in Baker, Louisiana.

34. Plaintiff Thurmond Price was a resident of Orleans Parish whose home was destroyed by Hurricane Katrina. Mr. Price has diabetes and a serious heart condition. Prior to Hurricane Katrina, Mr. Price was living by himself in a shared house. He had no relation to the other people who lived in the house. In early September, Mr. Price applied with FEMA for Temporary Housing Assistance. Mr. Price was denied housing assistance because someone else living in the same shared apartment had applied for housing assistance. He is currently living by himself in the Red Cross Shelter in Baker, Louisiana.

35. Plaintiff Keiva Melissa Colomb was a resident of Orleans Parish when Hurricane Katrina struck. Her apartment was completely destroyed and she was evacuated to Texas, exhausting her savings getting there. On August 30, 2005, she called FEMA’s 800 number throughout the day to apply for benefits, but was unable to get through. Finally, at 2 am, Ms. Colomb reached a FEMA worker and was able to register. In San Antonio, prior to receiving FEMA housing assistance, Ms. Colomb found an apartment she could afford with the help of a roommate, another victim of Hurricane Katrina. Three weeks after Ms. Colomb called FEMA, \$2,358 appeared in her bank account. However, she received no information regarding how the money was to be used, and when she tried to call FEMA, Ms. Colomb was unable to get through. Having lost most, if not all, of her possessions in the storm, she used the \$2,358 for rent and to replace the bare necessities that she had lost: a toothbrush, towels, sheets, pots, food, a mattress and other essentials. Through word of mouth she heard that she could get assistance from FEMA for up to a year and was counting on it to make ends meet and to stay in her

apartment. Yet, weeks later, when Ms. Colomb was finally able to talk to a FEMA representative, she was told for the first time that the money she previously received was solely for rental assistance, and that the only way she could get additional assistance was to prove through receipts that she spent all of the money on rent.

36. Plaintiff Russell Hayward lived with his wife, who has severe asthma, in a trailer in Long Beach, Mississippi, when Hurricane Katrina struck. With very little money and a car that was on its last legs, they were unable to evacuate before the storm and, thus, waited out the hurricane in a nearby brick building. When they returned home after the hurricane, their trailer was destroyed and the sewage line broken. For five days they waited for help, living on their front porch in 100 degree heat, with no electricity or water, with the smell of sewage and dead animals, and Ms. Hayward's asthma getting worse. After four days, their neighbor's phone finally received a signal. Mr. Hayward was able to reach a friend and was told they could stay with another friend in Pensacola, Florida, two and half hours away. Mr. Hayward and his wife left Mississippi with twenty-two dollars in their pocket, in a car with three-quarters of a tank of gas and four bald tires. Along the way to Florida, their car broke down and they sold it to a junk shop in order to get enough money to make it the rest of the way to Pensacola. In Pensacola, on September 7, 2005, they finally were able to register for FEMA assistance. Although they were told when they registered that they would receive a package explaining FEMA benefits, they never received any such package. Through the generosity of friends, Mr. Hayward and his wife were able to go to San Antonio, where friends had offered to put them up. They went to the Kelly USA DRC, joining thousands of other evacuees. On October 6, 2005, Mr. Hayward received, with no explanation or information, \$2,358. Not knowing that this money was for rental assistance, Mr. Hayward spent it on food, clothing, and emergency dental work for his wife. Three weeks later, Mr. Hayward received a letter from FEMA, which had not been mailed

until October 17, 2005, explaining that the money he had received had been for rental assistance. He called FEMA and was told that he could not receive additional financial assistance unless he could prove the money was used for rental assistance. When he tried to explain that he needed more money because he had spent the money on other essentials prior to being told that it could only be used for rental assistance, the FEMA worker hung-up on him.

37. Plaintiff Mary Pat Van Tino is 67 years old. When Hurricane Katrina struck, she was living in her house in Orleans Parish. Her house has been severely damaged, the roof is gone, there is water damage everywhere and rooms have been sealed off. Mold, which is especially detrimental and dangerous to Ms. Van Tino as a result of her emphysema, has developed. Since she had no money, she had no choice other than to take shelter in what remains of her house. Although she stayed in her house during the hurricane, Ms. Van Tino was forced to leave upon the breach of the levees, at which time she evacuated to California. In California, she was able to stay with various friends, but each only for a few days at a time. On September 1, 2005, Ms. Van Tino started calling FEMA. It took her a week, calling at all times, including the middle of the night, before she was able to reach a FEMA worker. Although the system said to “press 1” for English, the FEMA worker she talked to barely spoke English. Before returning to New Orleans, Ms. Van Tino tried to access her FEMA application online. She first tried to get on using a Macintosh computer. Upon learning that the system did not permit access through a Macintosh, Ms. Van Tino, who has a Masters Degree, tried to get on by using a PC. Unable to access the information, she went to a series of friends, including a computer expert, but all of their efforts failed. After eight weeks of moving from house to house and living off the generosity of others, Ms. Van Tino, decided to return to New Orleans. When she went to the DRC in New Orleans, she learned that the FEMA worker with whom she previously had spoken on the phone had entered her information incorrectly. She was told that she could make the

changes and appeal, a process that would take at least a month, but that FEMA had no more money and so she would receive no assistance.

38. Plaintiff Pamela Jackson is 37 years old and has seven children who live with her ex-husband. Hoping to regain custody of at least some of her children, Ms. Jackson saved for months and bought a trailer with room for her young children two weeks before Hurricane Katrina, with arrangements to move into it within a few weeks. When Ms. Jackson returned to New Orleans after having been evacuated, she learned that her trailer survived Hurricane Katrina with only minor, repairable damage. Ms. Jackson got the materials she needed to make the repairs, but when she returned to her trailer, it had been moved from its plot in the trailer park to an area where it is no longer connected to gas, electricity or plumbing. She had been evicted so that room could be made in the trailer park for FEMA trailers. Prior to Hurricane Katrina, Ms. Jackson had dreamed of the day when she would once again have a home with her kids. Ms. Jackson has been told, however, that if she does not soon remove her trailer from where it was subsequently placed, it would be destroyed. Ms. Jackson has nowhere to relocate her trailer because FEMA will not permit her to place her own trailer on the land that FEMA has leased for its trailers and the other trailer parks in the area have raised their rates beyond Ms. Jackson's means. When Hurricane Katrina struck, Ms. Jackson was living in St. Bernard Parish, where she rented a room. Although she received \$2,358 from FEMA prior to returning to New Orleans, she was never told how the money could be used. She used it for clothing, food, and shelter, and currently has almost nothing remaining.

39. Plaintiff William Davis is 52 years old. When Hurricane Katrina struck, he was living in Orleans Parish with his elderly mother. His brother was living with them on and off, but when they evacuated they lost touch. Their house was destroyed, and they have lost almost everything. Mr. Davis evacuated to Shreveport, Louisiana and applied for FEMA

assistance. His application was denied without explanation, and he filed an appeal in mid-October. He has also applied for a FEMA trailer, but has not heard from FEMA since he applied two weeks ago. Since evacuating, he has been unable to find work in Shreveport. He has no money to be able to live in New Orleans, where work opportunities are available to him. He has been living by incurring credit card debt, although some of his cards have been cancelled. Mr. Davis has been sharing a hotel room with a friend who received FEMA assistance, but his friend's mother will soon be moving to this hotel room at which time Mr. Davis will be without a place to live.

40. Plaintiff Elizabeth Simpson has not received any Temporary Housing Assistance from FEMA even though she applied over two and one half months ago and made over 15 phone calls to provide FEMA with information and inquire about her application. Ms. Simpson was a New Orleans resident when, due to Hurricane Katrina, she was forced to evacuate her residence. The week after the hurricane struck, Ms. Simpson repeatedly called FEMA to register. After learning that she could register online, on approximately September 14, 2005, she went to a library to register using one of the library's computers. Although she considers herself computer savvy, she found FEMA's website incredibly difficult to navigate. A few weeks later, she received a packet of information in the mail, which contained references to documents that were suppose to be included in the packet, but were not. The package contained a copy of her application, which had numerous errors. For example, it was missing her home address, her phone numbers were inaccurate, and the application indicated that she was a dependent, which she is not. She promptly called FEMA to correct her application. Thereafter, Ms. Simpson received a recorded message at two of her phone numbers stating that because she lived in one of the hardest hit areas of New Orleans, it was not necessary to inspect her house. The recording also stated that she would automatically receive rental assistance. Inexplicably,

she subsequently was informed by FEMA that they had no record of any such recording and that her application was still "pending." On October 22, 2005, she visited a DRC in New Orleans and was told for the first time that she must establish proof of her pre-disaster residency. Since she had lost all of her documents which could demonstrate residency, she requested that FEMA send an inspector to her prior residence so that she could show him that some of her belongings were still stored there, but FEMA refused. On November 6, 2005, she received a call from FEMA and was told that, if she did not submit proof of her residency within a day, her case would be withdrawn and she would have to re-apply. FEMA asked her to show up promptly at her prior residence, but she was in Illinois. FEMA asked that she get someone else to show up, but she was unable to find someone to do that. Ms. Simpson called FEMA and was advised that the "real problem" with her case was that another tenant with the same pre-disaster phone number as hers had received rental assistance and she needed to clear that up. As a result, Ms. Simpson has been essentially homeless, drifting night by night to different persons homes without belongings or funds to afford housing or other necessities. She lost her job due to the disaster and cannot get another job since she does not know where she will be living and is under terrible stress due to her homeless conditions. She has become sick due to stress, is not getting enough to eat, and has no place to recuperate and rest.

41. Plaintiff Chris Davis has still not received any Temporary Housing Assistance, although he registered more than two months ago. Mr. Davis lived in New Orleans, and his home was completely flooded by the hurricane. Several days before the hurricane struck, he made his way to Slidell, LA, where his mother lives. They evacuated to a motel in Baton Rouge, LA. On approximately September 3, 2005, he registered with FEMA by phone. Approximately 10 days later he received a package from FEMA in the mail. Because he did not understand the information in the package, specifically the release contained therein, he called

FEMA and was told to hold onto the release form and that an inspector would call him to provide the information that needed to be written on the form. Although the FEMA worker further told him that an inspector would contact him within two weeks, no one ever did. As a result, he called FEMA and asked why no one had ever called him. In response, FEMA told him that he should have mailed the release form. He immediately faxed and mailed the release form to FEMA. A week later, Mr. Davis called FEMA, as he had been instructed, and was informed that FEMA still did not have the form, and told that that he should give FEMA more time. A week after that, FEMA informed him that his area of New Orleans was so badly damaged that inspectors were not going out to those areas, but that FEMA would be doing satellite inspections and he should call back in a week. Mr. Davis called back as instructed and was advised by FEMA that his application was still "pending." Mr. Davis continued to call nearly every day to check the status of his application. Approximately one month ago, FEMA informed him that, based on a satellite survey, they could not determine whether anyone had ever lived in his home, despite the fact that they saw boarded up windows that he had put up before the hurricane struck. He asked the FEMA representative if he wanted to see a copy of his lease as proof of residency, but was advised that it was not necessary and that an inspector would visit his home. When he called FEMA again, he was told him that it would be advisable for him to send a copy of his lease to FEMA. Thereafter, he faxed FEMA a copy of his lease, electricity bill, water bill, proof of a bill of sale for his vehicle and proof of insurance for his vehicle. FEMA subsequently advised him that inspectors would be going to certain areas of New Orleans, but that no inspector had yet been assigned to his particular area. He was told to wait two more weeks for an inspector to visit his house and that an inspector would contact him. That was approximately 8-10 days ago. Mr. Davis, who has been living in a motel for more than 2 months, is still waiting. He has nowhere to live and does not know if he will ever receive his assistance.

42. Plaintiff Lyman Scott, a stroke victim with liver disease, has been waiting for Temporary Housing Assistance for more than two months. After the hurricane struck, he was evacuated to the Convention Center in New Orleans, where he stayed for three days without any water or food. Thereafter, he was put on a bus without any information as to where they were headed. He eventually ended up at the Fort Chaffee Army Base in Fort Chaffee, Arkansas, where he stayed for two days. Mr. Scott was then bused to Baptist Assembly Camp in Arkansas, where, with someone's assistance, he registered online on approximately September 7, 2005. He stayed at the camp for more than a month, and then was moved into a hotel because the camp was closing. He has been living in a hotel for approximately one month. Mr. Scott has repeatedly called FEMA on their 800 number and has been told there is nothing wrong with his application. Despite pleading with FEMA that he is disabled and in need of assistance, he is told that his application is still "pending."

43. Plaintiff Michelle Davis has been living in a motel with her six-year old daughter and is still waiting for Temporary Housing Assistance after registering with FEMA more than two months ago. Prior to the hurricane, Ms. Davis lived with her mother and her daughter in New Orleans. When they evacuated, she and her mother were separated, and Ms. Davis and her daughter evacuated to Dale, MS and stayed in a motel for three to four days. Out of money, she drove to Baton Rouge, LA to stay with her brother. They stayed with him for one night, but, thereafter, were forced to live out of their vehicle for three to four days. With the assistance of the Red Cross, she and her daughter have been staying in a motel in Baton Rouge. On Sept. 4, 2005, she registered with FEMA over the phone. Since registering, she has repeatedly called FEMA, and is told her application is "pending." During one discussion, however, FEMA informed her that she was ineligible for assistance because her mother registered for benefits using the same address. Ms. Davis explained that she and her daughter

were living in a motel and that her mother was living somewhere else. FEMA told her she could appeal, but Ms. Davis did not know how to appeal a decision on an application that is supposedly still "pending." She has called FEMA almost every day, four to six times a day. Each time, she is given inconsistent information. Recently, FEMA advised her that she could receive a travel trailer, but Ms. Davis explained that she has no money to pay for space for the trailer. Ms. Davis and her daughter have been told that all evacuees at her motel must leave by Dec. 1, 2005. They have no idea what they will do or where they will go if she does not receive assistance.

44. Plaintiff Jennifer Sampey and her husband, residents of Gretna, LA, have been waiting for rental assistance for more than two months. A few days after the hurricane struck, the Sampeys applied for FEMA benefits by registering over the phone. Approximately 9 days after the hurricane struck, they were rescued by helicopter and taken to the Armstrong Airport in New Orleans. From there, they were flown to Robins Air Force Base in Atlanta, GA, and then bused to Eatonton, GA to a shelter. Eight to nine days later, the mayor of Macon, GA selected them and several other people from the shelter and took them to a hotel in Macon. They stayed at the hotel for approximately 6 weeks. A church group found an apartment for them, and Department of Family and Children Services offered to pay one month's rent, which the Department has never paid. They are still living in the apartment, but do not know who is going to pay their rent. At the end of October, six FEMA representatives came to the hotel in Macon. After Ms. Sampey met with the representatives at the hotel, she called FEMA's 800 number to verify the information on file. To her surprise, FEMA advised her that FEMA had a record of her voluntarily withdrawing her application for benefits. She explained to FEMA that she had never withdrawn her application and that she and her husband needed and were waiting for their assistance. FEMA advised that her application would be renewed and that an inspector would visit her residence in Gretna. Since then, she has called FEMA repeatedly, and each time she is

told something different. One FEMA representative told her that they needed a letter from the manager of the room she rented and that the manager needed to fax FEMA all of her and her husband's personal information to verify their place of residence. Another FEMA representative told her that she could appeal her application. To date, she and her husband have not received any assistance.

45. Plaintiff David Magee, whose home was destroyed by Hurricane Katrina, is living in a shelter with his wife and has not received any FEMA assistance. When Hurricane Katrina struck, Mr. Magee and his wife were living in a rental apartment in Biloxi, Mississippi, 20 feet from the Gulf of Mexico. On September 2, 2005, there was a mandatory evacuation and Mr. Magee and his wife were forced to go to Norman Park, Georgia, where he and his wife were placed in dorm rooms. On September 7, 2005, a FEMA representative filled out their application online. On September 14, 2005, they received a letter denying the Magees Temporary Housing Assistance because the FEMA representative who filled out the application failed to put in the correct address for their residence in Biloxi. The same day, Mr. Magee appealed with a fax providing the correct address. On September 16, 2005, the Magees were moved from the dorms to a shelter in Waycross, Georgia, where they are still living because they have no money to use for rent. On October 14, 2005, Mr. Magee filled out an SBA loan application because he was instructed that he needed to in order to receive any FEMA assistance. On October 29, 2005, he received a letter from FEMA denying them Temporary Housing Assistance because FEMA incorrectly believed that the apartment in Biloxi was not their primary residence and that they needed to submit proof of residency. The same day, Mr. Magee faxed FEMA a copy of his lease and letter of explanation. Since October 29, Mr. Magee has called twice a week to ask about his application and has been told both that his application is "pending" and he would hear something

in 7 to 10 days; and that he would be receiving a check in 7 to 10 days. He has not received anything from FEMA.

46. Plaintiff Keishan Goodman was a resident of Orleans Parish when Hurricane Katrina struck. Her home, where she lived with her daughter, was completely destroyed. Ms. Goodman and her daughter evacuated to a shelter in Indianola, Mississippi. However the shelter was so overcrowded that she, her daughter, her mother, and her friend's family got a single room to share in a nearby hotel. Within a week after Hurricane Katrina, Ms. Goodman applied for FEMA assistance. She then went with her daughter to the house of church group member for two weeks. On September 22, 2005, Ms. Goodman received \$2,358. After giving \$500 to the church group member for letting them stay at her house, Ms. Goodman spent the remaining money on rent for an apartment for herself and her daughter, a futon to sleep on, and other necessities. In early October, Ms. Goodman received a letter from FEMA stating that the \$2,358 was to be used only for rent and any other uses would jeopardize her ability to get more assistance. Since receiving this letter, Ms. Goodman has called FEMA almost every day to discuss her situation. All she has been told is that she should submit her receipts. Ms. Goodman sent her receipts to FEMA at the beginning of November, at which time she was told that it would take 2 to 4 weeks to post on her file. Ms. Goodman has no more money and the landlord has started eviction proceedings against her because she is unable to pay the rent for the next month. Her eviction hearing is on November 22, 2005. Should the landlord prevail, Ms. Goodman and her daughter will be homeless again.

47. Plaintiff Shawn Allen was a resident of Orleans Parish, prior to Hurricane Katrina and rented a home with a roommate. The day before Hurricane Katrina hit, he and his roommate evacuated to Dallas, Texas and stayed at a hotel for approximately five days. Because there was an influx of evacuees moving into Texas, he and his roommate decided to leave the

state. In search of work, he and his roommate moved from state to state. They ultimately drove to San Antonio, Texas because they were nearly broke and learned that FEMA was subsidizing hotel rooms for Katrina evacuees there. Since mid-November, Mr. Allen has been living in hotels in San Antonio for which FEMA has been paying. Immediately after the hurricane struck, Mr. Allen registered with FEMA over the phone for Temporary Housing Assistance. In the days and weeks following his registration, Mr. Allen called FEMA's 800 number repeatedly to check the status of his application, but the phone lines were always busy. Finally, at the end of October – nearly two months after registering – he received a check from FEMA for \$1,392 in the mail. He did not receive any information from FEMA explaining what the \$1,392 payment covered. Mr. Allen repeatedly called FEMA asking why he had received only \$1,392, but no FEMA worker knew the reason. On November 19, 2005, Mr. Allen went to a DRC in San Antonio, where he was informed for the first time that his case had been "closed" because he had not properly filled out the SBA loan application. He explained to a FEMA worker that he did not know it was necessary to apply for a SBA loan, and that he did not want to apply for an SBA loan because he had no way of paying it back. The FEMA worker told Mr. Allen that he would try to reopen his case. To date, his case has still not been reopened. If Mr. Allen does not receive further Temporary Housing Assistance from FEMA before FEMA's hotel program ends, he will be homeless.

48. Plaintiff Timothy Hood has not received any Temporary Housing Assistance from FEMA. Prior to when the hurricane struck, Mr. Hood was living with his parents in New Orleans and paying them rent. When Hurricane Katrina struck, Mr. Hood, his parents, his brother and a member of his church went to his parents' attic because his house was flooded, and Mr. Hood climbed to the roof to flag down a helicopter. The next day, all of them were rescued by a helicopter and were flown to the University of New Orleans, where they slept

on the floor. To evacuate New Orleans, they walked approximately three miles to the Lakefront Airport and then slept on the runway that night. The next day, they were flown first to Louis Armstrong Airport and then to San Antonio, Texas. When they arrived in San Antonio, they were taken to the Kelly USA shelter, where they stayed until September 9, 2005. Thereafter, they moved to a motel paid for by the Red Cross, where they stayed for approximately three to four weeks. On October 8, the motel informed them that they would have to leave to make room for other guests. They then moved to another motel and have been living at the second motel since October 8, 2005. On September 10, 2005, Mr. Hood registered for Temporary Housing Assistance with FEMA by telephone. Despite having registered more than two months ago, Mr. Hood still has not received any Temporary Housing Assistance from FEMA. Mr. Hood learned that, through no fault of his own, several errors had been made on his application, and that his application is still "pending." He has received different explanations as to why his application was "pending." During one conversation with a FEMA worker, Mr. Hood was informed that his application was still "pending" because he used his parents' address when he registered. Mr. Hood learned only recently that he would probably not receive any benefits because his father is considered his head of household. He explained to a FEMA worker that he is not a dependent of his parents and paid them rent. Mr. Hood is still living in a motel which is being paid for by FEMA. Once FEMA stops paying for his motel bill, he will have no place to live and still will be without his Temporary Housing Assistance.

49. Plaintiff Michael Martinez has been a paraplegic since 1987. Before Hurricane Katrina struck he rented an apartment in Slidell, Louisiana with a roommate. The day before the hurricane, he and his roommate evacuated to Memphis, Tennessee and stayed together in two motels for approximately two months. They paid for the motel rooms out of their own pockets. Because they had barely any money left, they drove to Florida, where FEMA was

paying for hotel rooms for evacuees. They drove to Pensacola Beach, Florida and on October 22, checked into a motel where Mr. Martinez is still living. Shortly after the hurricane struck, Mr. Martinez's roommate registered him with FEMA online. More than two months after registering, Mr. Martinez received a payment of \$2,358, but without any information suggesting that the \$2,358 payment could be used only for rent. As a result, Mr. Martinez used some of the money for basic living expenses. Mr. Martinez has called FEMA repeatedly with requests for additional assistance, as he is in need of medical care. At one point he was told by FEMA that he would be receiving a trailer. Meanwhile, he has been unable to bathe for almost three months, as he has not had access to the care and treatment his condition requires. Because he is paralyzed, Mr. Martinez has been unable to find a place to live on his own. If he does not get additional assistance from FEMA, he will be on the street once FEMA stops paying his hotel bill.

50. Plaintiff Charles Hill, Jr. rented an apartment in Harvey, Louisiana and lived alone prior to Hurricane Katrina. Mr. Hill suffers from prostate cancer and a heart condition. On the day of the hurricane, Mr. Hill woke up in water. He stayed in his apartment for approximately one week, waiting to be rescued by his sisters. Mr. Hill finally hitchhiked to the Astrodome in Houston, Texas, where he immediately sought medical treatment and was hospitalized for approximately nine days. Three days after he left the hospital, he found out that Hurricane Rita was going to strike and that he had to evacuate; an agency gave him a ticket to fly to San Antonio, Texas. When he arrived in San Antonio on approximately September 30, the Red Cross paid his motel bill. Eventually, FEMA started paying the motel bill. Mr. Hill is still living in the motel. On approximately September 7, 2005, when he was still in the hospital, Mr. Hill registered with FEMA by telephone. On approximately October 30, 2005, he visited a DRC and learned for the first time that his case had been "closed" because he had failed to meet an inspector in Harvey, Louisiana. Mr. Hill asked FEMA to reopen his case and, shortly

thereafter, he received a message from an inspector stating that he would have to meet with the inspector within 72 hours in Harvey. Mr. Hill explained to the inspector that he did not have the money to rent a car and pay for gas to travel to Harvey. On November 7, 2005, Mr. Hill discovered during a visit to the DRC that his case had not been reopened. Mr. Hill has no money, and once FEMA stops paying his motel bill, he will have no place to live unless he receives his Temporary Housing Assistance.

51. Plaintiff Lenora Bartley was a resident of Gretna, Louisiana at the time Hurricane Katrina struck. She lived with her husband and eight-year old son. The day after the hurricane struck, using her boss' car, she and her family drove to Gonzales, Louisiana, where they stayed with her boss' in-laws for approximately one month. During that time, she and her husband separated, and she found out that she was pregnant. Because she could no longer stay with her boss's in-laws, she purchased a used car and drove to San Antonio, Texas, where her sister lives. She does not know where her husband is currently living. In San Antonio, she and her son lived with her sister for several days, but because visitors were not permitted to stay at her sister's complex for more than a week, she and her son were forced to leave. Ms. Bartley and her son moved into a motel and have been living in the motel for approximately two to three weeks. FEMA has been paying for her motel room. Approximately one to two weeks after the hurricane struck, Ms. Bartley registered with FEMA online. She repeatedly called FEMA's 800 number and was always told that her application was "pending." In September, while Ms. Bartley was in Gonzales, a FEMA inspector called instructing her to meet him in Gretna. She explained that she had no car to drive and that no one could drive her there. When she arrived in San Antonio, she went to the DRC and discovered for the first time that her case was "closed" because she had failed to meet the inspector in Gretna. Ms. Bartley explained that she did not have the money to travel to Gretna and asked that her case be reopened. Since then, she

has repeatedly asked FEMA to reopen her case. Ms. Bartley is currently four months pregnant and suffers from a high risk pregnancy because she is 44-years old and has high blood pressure. Once FEMA does stop paying her motel bill, Ms. Bartley and her son will be homeless, unless she receives her Temporary Housing Assistance.

B. Class Plaintiffs

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

53. 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 Temporary Housing Assistance, (ii) have unlawfully been denied Temporary Housing Assistance, (iii) have not been informed about the scope and conditions of the available Temporary Housing Assistance, and/or (iv) have been unable to apply for 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.

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

55. 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.

56. 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.

57. 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.

58. 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, (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.

59. 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 Equal Justice Society, are experienced and capable

litigators possessed of sufficient resources to adequately protect and represent the interests of the plaintiff class.

60. 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

61. 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.

62. 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.

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

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

65. 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.

66. 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.

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

68. 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

69. 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.

70. 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.

71. 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

72. 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.

73. 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.

74. 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.

75. 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

76. 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.

77. 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."

78. 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.

79. 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.

80. 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.

81. 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**

82. 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."

83. 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."

84. 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."

85. 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

86. 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.

87. 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

88. 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.

89. 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 relocated. 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.

90. 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.

91. 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 Pearlington, 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 Pearlington residents are still living in tents and under tarps.

92. 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.

93. 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.

94. 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.

95. 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

96. 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.”

97. 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.

98. 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.

99. 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.

100. 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

101. 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.

102. 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.

103. 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.”

104. 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.”

105. 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.

106. 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.

107. 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.

108. 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.

109. 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

110. 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.”

111. 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.

112. 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.

113. 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.

114. 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.

115. 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.

116. 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.

117. 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.

118. 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.

119. 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

120. 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.

121. 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.

122. 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.

123. 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.

124. 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.

125. 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

126. 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.

127. 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.

128. 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.

129. 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

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.

130. 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.

131. 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.

132. 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

133. 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.

134. 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.

135. 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.

136. 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.

137. 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.

138. 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.

139. 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.

140. 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

141. 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.

142. 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)

143. Plaintiffs F. Jackson, Calvin Davis, W. Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, and Patin, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 142 inclusive.

144. Plaintiffs F. Jackson, Calvin Davis, W. Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, and Patin meet the eligibility requirements for receiving Temporary Housing Assistance and applied for rental and/or trailer assistance weeks ago.

145. Inexplicably, plaintiffs F. Jackson, Calvin Davis, W. Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, and Patin 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 weeks and months ago.

146. 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, and Patin, and similarly situated members of the class, will continue to suffer harm.

147. 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, and Patin, 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)

148. Plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley and Patin, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 147 inclusive.

149. Plaintiffs F. Jackson, Calvin Davis, McWaters, Hubbard, Smith, Price, Jones, Van Tino, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Hill, Bartley and Patin, 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.

150. 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 and Patin, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

151. 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 and Patin, 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.

152. 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.

153. 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 and Patin, 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)

154. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 153 inclusive.

155. Plaintiffs Hayward, Colomb, Goodman, P. Jackson and Martinez 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.

156. When receiving that assistance, plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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.

157. Because FEMA did not provide such information to plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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.

158. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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.

159. As a result, defendants have violated the rights of plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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)

160. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 159 inclusive.

161. Plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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.

162. 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 and Martinez, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

163. Defendants did not provide plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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.

164. Because defendants did not provide such notice and information to plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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.

165. 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.

166. As a result, defendants have violated the rights of plaintiffs Hayward, Colomb, Goodman, P. Jackson, Allen and Martinez, 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)

167. Plaintiffs, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 166 inclusive.

168. 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).

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

170. 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.

171. Plaintiffs, and similarly situated members of the class, have to date therefore been deprived of the ability to claim additional rental or trailer assistance.

172. 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.

173. As a result, defendants have violated the rights of plaintiffs, 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)

174. Plaintiffs, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 173 inclusive.

175. 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.

176. 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.

177. 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.

178. 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.

179. 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.

180. 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.

181. 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)

182. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez and Price, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 181 inclusive.

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

184. 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 and Price, 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.

185. Consequently, when 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, 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.

186. 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, 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.

187. 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)

188. Plaintiffs Hayward, Jones, Calvin Davis, Patin, Hubbard, Smith, W. Davis, Magee, Sampey, M. Davis, Scott, Chris Davis, Simpson, Martinez and Price, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 187 inclusive.

189. 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, 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.

190. 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 and Price, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

191. FEMA has not provided 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, 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.

192. 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 and Price, 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.

193. 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.

194. 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 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)

195. Plaintiffs, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 194 inclusive.

196. 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).

197. 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).

198. 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.

199. 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.

200. As a result, defendants have denied plaintiffs, 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)

201. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood, on behalf of themselves and other members of the class, reallege and incorporate by reference paragraphs 1 through 200 inclusive.

202. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood meet the eligibility requirements for receiving Temporary Housing Assistance and applied with FEMA for such assistance.

203. 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.

204. 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.

205. 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. FEMA has 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.

206. 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.

207. 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. 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.

208. 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.

209. 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, and Hood, 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.

210. As a result, defendants have violated the rights of plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood, 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)

211. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 210 inclusive.

212. Plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood, 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.

213. 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, and Hood, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

214. Defendants have denied Temporary Housing Assistance to plaintiffs Smith, Simpson, McWaters, and Hood, 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.

215. Defendants have summarily denied Temporary Housing Assistance to plaintiffs W. Davis, and M. Davis, 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.

216. 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.

217. As a result, defendants have violated the rights of plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood, and similarly situated members of the class, under Due Process of law as guaranteed by the Fifth Amendment to the United States Constitution.

218. As a result of these actions, defendants have denied plaintiffs Smith, W. Davis, Simpson, M. Davis, McWaters, and Hood, 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)

219. Plaintiffs Smith, Jones, Magee, Price, and Allen, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 218 inclusive.

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

221. 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).

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

223. Plaintiffs Smith, Jones, Magee, Price, and Allen, 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.

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

225. Because plaintiffs Smith, Jones, Magee, Price, and Allen, 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.

226. 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 and Allen, 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.

227. As a result, defendants have violated the rights of plaintiffs Smith, Jones, Magee, Price, and Allen, 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)

228. Plaintiffs Smith, Jones, Magee, Price, and Allen, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 227 inclusive.

229. Plaintiffs Smith, Jones, Magee, Price, and Allen, 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.

230. 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, and Allen, and similarly situated members of the class, of a meaningful opportunity to seek and make use of those benefits.

231. By denying or delaying Temporary Housing Assistance for plaintiffs Smith, Jones, Magee, Price, and Allen, 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, and Allen, and similarly situated members of the class, of the right to claim benefits for which they are eligible.

232. 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.

233. As a result, defendants have violated the rights of plaintiffs Smith, Jones, Magee, Price, and Allen, 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)

234. Plaintiffs Smith, Jones, W. Davis, McWaters, Simpson, Magee, M. Davis, Price, Hood and Allen, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 233 inclusive.

235. 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).

236. 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).

237. FEMA denied Temporary Housing Assistance to plaintiffs Smith, W. Davis, McWaters, Simpson, M. Davis, Price, and Hood, 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.

238. FEMA required plaintiffs Smith, Jones, Magee, Price, and Allen, 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.

239. 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.

240. As a result, defendants have deprived plaintiffs Smith, Jones, W. Davis, McWaters, Simpson, Magee, M. Davis, Price, Hood and Allen, 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)

241. Plaintiffs, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 240 inclusive.

242. 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).

243. 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).

244. 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.

245. As a result, defendants have deprived plaintiffs Hill and Bartley, 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)

246. Plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill and Bartley, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 245 inclusive.

247. Plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill and Bartley 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.

248. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits defendants from depriving plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill and Bartley 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.

249. FEMA has failed to provide plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill and Bartley 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.

250. FEMA's failure to provide plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill and Bartley 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.

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

252. As a result, defendants have violated the rights of plaintiffs Michelle Davis, Allen, Hood, Martinez, Hill and Bartley 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

253. Plaintiffs, on behalf of themselves and members of the class, reallege and incorporate by reference paragraphs 1 through 252 inclusive.

254. 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).

255. 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).

256. 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 requirements, 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)

257. 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

258. Plaintiffs reallege and incorporate by reference all previous paragraphs 1 through [257] inclusive.

259. 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.

260. 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.

261. 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.

262. 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.

263. 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.

264. 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.

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

DECLARATORY RELIEF

266. An actual controversy exists between plaintiffs and defendants in that plaintiffs contend that the policies and practices set forth in paragraphs 1 to 265, 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 Orleans, Louisiana
November 28, 2005

SCHULTE ROTH & ZABEL LLP

By: _____
Howard O. Godnick, Esq. Admitted Pro Hac Vice
Daniel L. Greenberg, Esq. Admitted Pro Hac Vice
Michael S. Chernis, Esq. Admitted Pro Hac Vice
919 Third Avenue
New York, New York 10022
(212) 756-2000

And

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
(202) 662-8600
Pro Hac Vice Admission Pending

THE PUBLIC INTEREST LAW PROJECT
Steve Ronfeldt, Esq.
449 15th Street, Suite 301
Oakland, California 94612
(510) 891-9794

EQUAL JUSTICE SOCIETY
Eva Patterson, Esq.
Kimberly Thomas Rapp, Esq.
220 Sansome Street, 14th Floor
San Francisco, California 94104
(415) 288-8700

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

Attorneys for Plaintiffs