

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

.....  
CLAIRE BROU, P.D., a minor, by his next friend, \*  
DARLENE CROSBY, WILLIE FOSTER, \*  
DONNA GRAFFAGNINO, CARLA HAGLER, \*  
ANGELA BREAU HARDY, ROBERT \*  
THOMAS HARRIS, EUGENE J. JOHNSON, \*  
VICTORIA SUMRALL, TERRY WEST, \*  
and ANITA M. WILSON; \*

Plaintiffs, \*

JUDGE \_\_\_\_\_

v. \*

MAGISTRATE JUDGE \_\_\_\_

FEDERAL EMERGENCY MANAGEMENT \*  
AGENCY; DEPARTMENT OF HOMELAND \*  
SECURITY; MICHAEL CHERTOFF, Secretary \*  
of Department of Homeland Security; DAVID \*  
PAULISON, Interim Director, Federal Emergency \*  
Management Agency; \*

Defendants. \*

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**CLASS ACTION COMPLAINT**

**I. INTRODUCTION**

1. Plaintiffs bring this action on behalf of themselves and a class of similarly situated persons challenging the discriminatory practices and policies of defendants that deny equal and meaningful access to temporary housing assistance program for victims of Hurricane Katrina and Hurricane Rita who have disabilities, in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a) (“Section 504”); the Fair Housing Act, 42 U.S.C. § 3604 (“FHA”); and the Stafford Act, 42 U.S.C. § 5170 *et seq.*

2. In August and September of 2005, Hurricanes Katrina and Rita struck Louisiana and Mississippi, leaving many thousands of people, including thousands of people with

disabilities, homeless.

3. Only after substantial delays, the Federal Emergency Management Agency (“FEMA”), the federal agency charged with providing temporary housing assistance to the hurricane victims, began providing trailer homes on private land, in commercial trailer parks or in group sites constructed by FEMA.

4. FEMA lacks a reliable system for identifying people with disabilities, informing people with disabilities of their right to accommodations, accurately processing applications for accessible housing, and providing such housing.

5. As a result, hundreds of persons with disabilities, including children with disabilities, are still waiting for FEMA to provide them with trailers that are accessible and permit them to perform daily and basic life functions.

6. Plaintiffs are individuals with disabilities, or family member representatives of individuals with disabilities, who have indicated to FEMA that they need to be provided with physically accessible direct housing assistance, but have not received such assistance to the same extent that housing was provided for people without disabilities in violation of Section 504, the FHA, and the Stafford Act.

7. FEMA has estimated that approximately 8% of evacuees need accessible trailers.

8. Five months after the hurricanes, FEMA still has failed to provide accessible trailers to plaintiffs and similarly situated class members.

9. Specifically, plaintiffs have provided information from which FEMA knew or should have known that plaintiffs need trailers with features such as ramps to enter and exit, roll-in showers, toilets with grab bars, rooms with wide doorways and sufficient space to maneuver a wheelchair, and other accessible design features that would enable the trailers to meet plaintiffs’

most basic needs.

10. Lacking such features, some plaintiffs are unable to independently enter and exit their trailers, and others are unable to safely and independently cook, bathe, and move around their trailers and generally go about daily basic routines.

11. The so-called accessible emergency housing that FEMA has offered or provided does not comply with federal building standards. As a consequence, plaintiffs and those similarly situated have been denied the ability to live safely and independently, in violation of FEMA's obligations to them under the law.

12. Although FEMA regulations and applicable law look to the Uniform Federal Accessibility Standards ("UFAS") which apply to mobile homes and trailers, FEMA has systematically ignored these standards and fails to require contractors to provide truly accessible trailers. To the limited extent that FEMA has provided trailers it claims are "accessible," these trailers are not in fact accessible and are not consistent with access standards.

13. FEMA's disregard of these uniform federal standards violates the Section 504 mandate to provide meaningful access to FEMA's temporary housing program for evacuees with disabilities and an equal opportunity to participate in and benefit from that program.

14. FEMA's unlawful conduct is causing and, unless enjoined, will continue to cause, widespread irreparable harm, including homelessness, inability to meet basic self-care needs, and deterioration of medical conditions suffered by evacuees with disabilities.

15. Plaintiffs therefore seek temporary restraining order and a preliminary and permanent injunction enjoining defendants, *inter alia*, from (1) failing to provide accessible trailers on a timely basis to evacuees/persons with disabilities; (2) failing to replace or modify trailers to accommodate evacuees with disabilities; (3) failing to require that the trailers it

provides as “accessible trailers” meet federal standards; and (4) failing to develop an information system sufficient to enable FEMA to consistently identify evacuees with disabilities, their needs for accommodations and to provide temporary housing assistance as required by law.

## **II. JURISDICTION**

16. This Court has jurisdiction in accordance with the provisions of 28 U.S.C. §§ 1331, 1343 and 1651. Declaratory and injunctive relief is authorized pursuant to 28 U.S.C. §§ 2201 and 2202.

## **III. PARTIES**

### **Claire Brou**

17. Claire Brou is 78 years-old. Prior to Hurricane Katrina, Ms. Brou lived in her home in Ocean Springs, Mississippi. She is paralyzed on her right side in both her upper and lower extremities. She became paralyzed while she was in the United States Air Force, from which she was discharged as 100 percent disabled. She uses a motorized scooter. She has cataracts in both eyes and also has a hearing problem.

18. Claire Brou is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

### **P.D.**

19. P.D. is six years old. His mother, Darlene Crosby, brings this action on his behalf. Until September 23, 2005, he and his mother lived in a house his mother was purchasing in Cameron, Louisiana. P.D. has autism, mild mental retardation, and a seizure disorder.

20. P.D. is a “qualified individual with a disability” and a “qualified individual with handicaps,” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Willie Foster**

21. Willie Foster is 61 years old. Prior to Hurricane Katrina, he lived in New Orleans, Louisiana. Mr. Foster’s left leg is paralyzed, making it very difficult for him to walk. He normally relies on a wheelchair for mobility.

22. Mr. Foster is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Donna Graffagnino**

23. Donna Graffagnino lived with her husband in a home they owned in Slidell, Louisiana, until August 28, 2005. Ms. Graffagnino suffers from severe spinal injuries and uses a wheelchair for mobility much of the time. She also has chronic depression.

24. Ms. Graffagnino is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

### **Carla Hagler**

25. Until August 29, 2005, Carla Hagler lived with her husband, Shawn Hagler, in St. Bernard, Louisiana. She has been diagnosed with Friedrich's Ataxia, a degenerative neuromuscular disease. In addition, she has diabetes, auditory neuropathy (hard of hearing), kidney stones, osteoporosis and clinical depression. She cannot walk and has very little control of her upper body. She uses a manual wheelchair for mobility but can only push the chair short distances.

26. Ms. Hager is a "qualified individual with a disability" and a "qualified individual with handicaps" as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a "handicap" as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

### **Angela Breaux Hardy**

27. Ms. Hardy is an 81 year-old woman who resides in Abbeville, Louisiana. She suffers from arthritis and has had a knee replacement. She has had a quadruple bypass, a brain tumor ("meningioma") removed and a stroke. She is diabetic and dependent on insulin injections. She has osteoporosis and lumbar disc disease. She has liver problems and has had a right mastectomy.

28. Ms. Hardy can walk only a few steps. She uses a walker and a wheelchair because she is not very steady on her feet. She must use a hospital bed because her heart condition requires her to be tilted at an angle. She cannot bend down or stoop over to do such things as put on socks and shoes.

29. Ms. Hardy is a "qualified individual with a disability" and a "qualified individual

with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Robert Thomas Harris**

30. Robert Thomas Harris is 59 years old. Until August 28, 2005, he lived in an apartment in Slidell, Louisiana. Mr. Harris has severe arthritis in his back, his right knee, and his hip. He has had two heart attacks. He has congestive heart failure, emphysema, and diabetes. He walks with a cane.

31. Mr. Harris is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Eugene Joseph Johnson**

32. Prior to Hurricane Katrina, Eugene Joseph Johnson lived with his wife in a mobile home on their property in Bay Saint Louis, Mississippi. Mr. Johnson is 57 years old and has diabetes. He has had two toes removed and he walks with a cane because he is unsteady on his feet. Mr. Johnson has had vascular surgery on his leg to improve his circulation. He has almost no vision in one eye and somewhat better vision in the other eye. He has had laser surgery on each eye 14 times.

33. Mr. Johnson is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act

and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Victoria Sumrall**

34. Ms. Victoria Sumrall is 21 years old. She has congestive heart failure and lung disease as well as post-polio syndrome, and will need knee replacement surgery on both of her knees. She has severe joint degenerative disease in both of her legs, feet, and ankles. She weighs approximately 400 pounds.

35. Ms. Sumrall is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Terry West**

36. Prior to Hurricane Katrina, Terry West and his wife, Sandy West, lived in a home they owned in Kiln, Mississippi. Mr. West had polio as a child. He uses a wheelchair because his feet are too swollen to wear a leg brace. Mrs. West uses a wheelchair because she has rheumatoid arthritis in her knees and one side of her body is weak from a stroke.

37. Mr. West is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Anita M. Wilson**

38. Anita M. Wilson is 45 years old. Prior to Hurricane Katrina, she lived with her husband, George, in an apartment in Jefferson, Louisiana. She has rheumatoid arthritis, osteoarthritis, high blood pressure, anxiety, and insulin-dependent diabetes.

39. Ms. Wilson has had both knees and her right elbow replaced. She normally uses a wheelchair for mobility.

40. Ms. Wilson is a “qualified individual with a disability” and a “qualified individual with handicaps” as those terms are used and defined in § 504 of the Rehabilitation Act and its implementing regulations, including 29 U.S.C. §§ 705(20)(A) and 794(a), and 44 C.F.R. § 16.103, and has a “handicap” as that term is defined in the Fair Housing Act, 42 U.S.C. § 3602(h).

**Defendants**

41. 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, 42 U.S.C. § 5174, and federal implementing regulations. When used in this Complaint, the acronym “FEMA” shall be understood to refer to both the Agency and Defendants listed below.

42. Defendant Department of Homeland Security (“DHS”) is the Agency within the Executive branch that has overall responsibility for supervising the Federal Emergency Management Agency, pursuant to the Homeland Security Act of 2002, 6 U.S.C. § 101 *et seq.*

43. Defendant Michael Chertoff is the Secretary of DHS. He is sued in his official capacity.

44. Defendant David Paulison has been the Interim Director of FEMA from September 12, 2005 through the present. He is sued in his official capacity.

#### IV. FACTS COMMON TO THE CLASS

45. On April 15, 2005, roughly 4 months before Katrina, the federally funded National Council on Disability (“NCD”) sent a report to the President entitled, “Saving Lives: Including People with Disabilities in Emergency Planning,” which extensively documents FEMA’s failure to plan for persons with disabilities and recommends systemic changes in FEMA’s disaster relief programs to accommodate persons with disabilities. *See* [http://www.ncd.gov/newsroom/publications/2005/pdf/saving\\_lives.pdf](http://www.ncd.gov/newsroom/publications/2005/pdf/saving_lives.pdf)). FEMA’s disregard of the NCD recommendations and lack of planning and preparation for persons with disabilities led to many of the unlawful and discriminatory practices challenged in this lawsuit.

46. On August 29, 2005, Hurricane Katrina hit parts of Louisiana, Alabama and Mississippi, causing flooding and severe property damage. The storm surge caused a breach in the New Orleans levee system, causing severe flooding throughout the city.

47. As a result of severe flooding, many residents of Louisiana, Alabama and Mississippi were forced to evacuate their homes, and many of their homes were destroyed.

48. On August 29, 2005, President George Bush declared the existence of a major disaster in the State of Louisiana caused by Hurricane Katrina, triggering the availability of assistance under the Stafford Act.

49. On September 24, 2005, Hurricane Rita hits parts of Louisiana, causing additional flooding and damage in the aftermath of Hurricane Katrina.

50. On September 24, 2005, President Bush declared the existence of a major disaster in the State of Louisiana caused by Hurricane Rita, triggering the availability of assistance under the Stafford Act.

51. Housing assistance is part of the assistance available to individuals and

households by FEMA under the Stafford Act, 42 U.S.C. § 5174. One form of such assistance is temporary housing assistance, which may take the form of either financial assistance or direct assistance. 42 U.S.C. § 5174(c)(1). Direct assistance consists of rent- free occupancy in federally- provided temporary housing. 44 C.F.R. § 206.117(b)(1)(ii).

52. Plaintiffs have applied for FEMA assistance and have indicated to FEMA that they need temporary housing assistance.

53. Plaintiffs, victims of the Katrina and Rita Hurricanes, are eligible for temporary housing assistance.

54. A primary means FEMA has chosen to provide direct housing assistance to eligible individuals and households in Louisiana is by providing purchased or leased travel trailers and mobile homes (both hereafter referred to as “trailers”). Some of these units have been placed in group sites provided by the State or local governments, or on land leased by FEMA. FEMA has contracted with private companies to develop the group sites for the temporary housing units, including roads, driveways, pads, utility hookups, and amenities such as security service headquarters and laundry facilities, and has ordered temporary housing units to be delivered and installed on the sites. Other units have been placed by FEMA contractors in lots leased by FEMA in already-existing commercial trailer and mobile home parks. Still other units have been placed by FEMA contractors on private property owned or rented by the individual or household applying for assistance.

55. Through the application process for the assistance to individuals and households, through surveys of shelters throughout Louisiana, and through contacts with individuals, government organizations, and other groups, FEMA has identified individuals and households who are eligible for and in need of direct housing assistance and has selected them for occupancy

of temporary housing sites as those sites became available for occupancy.

56. Roughly one-fifth of the Katrina and Rita disaster population consists of persons with disabilities. Many of the Katrina impacted communities have particularly high rates of disability – 27.1% in Hancock County (MS), 23.2% in New Orleans, 23.4% in St Bernard Parish (LA) 21.3% in Jackson County (MS), and 21% in Jefferson Parish (LA).

57. As of February 13, 2006, FEMA statistics show that it has provided 39,263 individuals and, households and industry employees with direct housing assistance in the form of mobile homes or travel trailers on private property in Louisiana.

58. According to a FEMA press release, as of 34,808 temporary housing units that had been provided in Mississippi as of February 3, 2006, only 417, or about 1%, were claimed to be compliant with the Americans with Disabilities Act.

## **VI. CLASS CERTIFICATION**

59. Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this action on behalf of similarly situated persons who:

(a) As of August 29, 2005, resided in Louisiana or Mississippi in areas declared to be Federal Disaster Areas as a result of Hurricane Katrina; or

(b) As of September 24, 2005, resided in Louisiana or Mississippi in areas declared to be Federal Disaster Areas as a result of Hurricane Rita;

(c) 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 or Hurricane Rita;

(d) Have applied for or will apply for assistance under the Stafford Act pursuant to 42 U.S.C. § 5174;

(e) Are “qualified individual[s] with [] disabilit[ies]” and a “qualified individual[s] with handicaps” as those terms are defined in Section 504 and implementing regulations, 29 U.S.C. §§ 705(20)(A) and 794(a); 44 C.F.R. § 16.103, and have a “handicap” as that term is defined in the FHA, 42 U.S.C. § 3602(h).; and

(f) Have informed or will inform FEMA of their need for temporary housing that accommodate their disabilities, but who have not received housing with such accessibility features.

60. Members of the class are so numerous that joinder of all members is impracticable. 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.

61. Plaintiffs and all others similarly situated constitute a definite and ascertainable class in that the members are reasonably identifiable from information which is in the control or may be reasonably obtained by FEMA.

62. There is a well-defined community of interest in the questions of law and fact involving the class claims in this case, including:

(a) Whether FEMA has failed and continues to fail to provide housing that is physically accessible to people with disabilities;

(b) Whether FEMA has failed and continues to fail to provide plaintiffs and class members with an equal and meaningful opportunity to participate in and benefit from its

temporary housing program;

(c) Whether FEMA's policies and practices have a discriminatory effect upon plaintiffs and the class on the basis of their disabilities;

(d) Whether FEMA has failed to provide reasonable accommodations needed by plaintiffs and the class in order to use and benefit from the temporary housing program;

(e) Whether FEMA has engaged Plaintiffs and class members or their representatives in designing solutions to the problems of Hurricane Katrina and Rita victims with special needs; and

(f) Whether FEMA's conduct violates Section 504, the FHA, and the Stafford Act.

63. The claims of the named plaintiffs are typical of the class members in that each named plaintiff (a) has been displaced by Hurricane Katrina or Rita and has not been able to return to their primary pre-disaster residence; (b) qualifies for housing assistance; (c) has a disability, as that term is used and defined in Section 504 and a handicap as defined by the Fair Housing Act; (d) has applied for temporary housing assistance; and (e) has not received temporary housing that is physically accessible.

64. 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 are experienced and capable litigators possessed of sufficient experience and resources to adequately protect and represent the interests of the class.

65. FEMA has 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.

## **VII. FACTS SPECIFIC TO INDIVIDUAL NAMED PLAINTIFFS**

### **Claire Brou**

66. Claire Brou's home in Ocean Springs, Mississippi, was entirely destroyed by Hurricane Katrina. The home was custom-designed to meet her accessibility needs. She was able to live almost completely independently because her home was accessible.

67. She applied in-person for FEMA housing assistance immediately after the hurricane. She requested an accessible trailer.

68. She got her first FEMA trailer in the last week of September 2005. It was not accessible for her because she could not fit her scooter through the door. She told FEMA that the trailer was not accessible for her.

69. FEMA gave her a second trailer in October 2005. The second trailer is not accessible to Ms. Brou. The trailer door is difficult for her to open and close because she can only use her left hand and the door handle is on the wrong side for her since she is paralyzed on her right side. It is also hard to turn her scooter around to get close to the door handle when she is opening the door from the outside. The trailer is too narrow inside for her to turn her scooter around and she can only move her scooter back and forth. The trailer does not have a roll-in shower and, as a result, she can only bathe with the help of her aide. The light switches, kitchen cabinets, and microwave are in places that are either completely unreachable for Ms. Brou or are located in places that are dangerous for her to try to reach because she might fall out of her scooter. It is difficult for her to get into bed because there is no room next to the bed and she

must get into bed from the foot of the bed. She once fell trying to get into the bed and had to call 9-1-1 for assistance.

70. On December 26, 2005, Mississippi Legal Services wrote a letter to FEMA on Ms. Brou's behalf detailing all of the problems with the second trailer. FEMA has not responded to her letter. The city offered her a mobile home in a trailer park approximately 17 miles away from her home in Ocean Springs. The city did not give her any details about the mobile home's accessibility. She does not want to leave her property and she has sufficient room on her property for a mobile home.

**P.D.**

71. The house where P.D. lived in Cameron was washed away in the hurricane. It came to rest 180 yards from its original location. Water reached the attic. P.D. and his mother have been living in a motel since late December 2005.

72. P.'s mother applied for FEMA assistance on Monday, September 26. When she first applied for assistance, she explained she had an autistic son, and that she needed a trailer with a large bathroom to accommodate P's disability because he is afraid of small enclosed spaces. FEMA found her eligible for assistance, and FEMA told her she would receive a "handicap" trailer with a large bathroom and with handrails on the steps.

73. A FEMA representative informed Crosby that she would be provided with a trailer more quickly if she located a lot for it herself.

74. In response, Darlene Crosby located a space in a commercial trailer park in Lake Charles, Louisiana, on which she could place a FEMA-provided trailer, and rented it effective November 1, 2005.

75. Ms. Crosby made repeated calls to FEMA informing FEMA that she had located

and rented a suitable lot for the trailer, and attempting to verify that they would receive a “handicap” trailer.

76. However, FEMA has not yet provided Ms. Crosby and P. with a trailer.

77. P. has been living in cramped or overcrowded conditions since November 1. For a small child with autism, this is intolerable. He has no place to play outside his motel room. The close quarters and lack of available space, his mother’s inability to cook nutritious meals, and the instability involved in motel life have made it impossible for him to establish a stable routine. He is not eating properly, and has undergone extreme weight loss. He feels claustrophobic in the motel, yet the only remedy—leaving the door open—leaves the family exposed and unsafe. P.’s behavior is continuing to regress and he is having frequent tantrums, involving screaming and violent behavior. Until he has a stable, appropriate housing, his mother fears his condition will continue to worsen.

78. P.’s mother has requested an extension of her hotel stay to March 1, 2006.

79. It is unclear if the extension has been properly granted.

### **Willie Foster**

80. On or about September 7, 2005, Willie Foster was rescued from his house by helicopter and taken to Louis Armstrong Airport, then taken by bus to the special needs shelter at the LSU football stadium in Baton Rouge. From there, he was taken by bus to the Cajundome, a Red Cross shelter in Lafayette.

81. The Red Cross shelter at the Cajundome closed on or about October 15, 2005, and remaining residents were put in another shelter or provided with trailers.

82. At that time, Mr. Foster informed FEMA representatives that he needed accessibility features such as a ramp, a toilet with a raised seat and grab bars, and an accessible

bathhtub or shower.

83. FEMA informed Mr. Foster that an accessible trailer was not available, and he would be provided with a trailer that did not have a ramp and an accessible bathroom.

84. In the trailer with which Mr. Foster was provided, it is very difficult for Mr. Foster to transfer from his wheelchair to the toilet, and to get in and out of the bathtub in his FEMA trailer, because of the lack of accessibility features. He does not feel safe in making these transfers because the lack of grab bars and the improper height of the toilet. In order to enter and exit his trailer, he must hop up and down the steps using the stair railing and one leg.

85. FEMA told Mr. Foster a ramp and accessibility features would be added. It has been over three months and FEMA still has not added the ramp or accessibility features that he needs.

### **Donna Graffagnino**

86. Hurricane Katrina caused flooding in Donna Graffagnino's house to a depth of approximately 6 feet, and a tree fell onto the house putting a hole in the roof. The home became, and remains, uninhabitable.

87. Ms. Graffagnino applied for FEMA benefits on September 1, 2005. At that time, she requested assistance with temporary housing and explained that she used a wheelchair and would need accessible housing on her property in Slidell.

88. At or around this time, Ms. Graffagnino explained to FEMA that they had a generator, and requested that electricity availability does not hold up their application.

89. At or around the end of October, Ms. Graffagnino called FEMA to inform them that electricity, water and sewerage services had been restored to their property.

90. Ms. Graffagnino made frequent and repeated telephone and personal contacts

with FEMA inquiring about the status of her trailer.

91. However, FEMA has not provided Ms. Graffagnino and her family with a trailer.

### **Carla Hagler**

92. Ms. Hagler and her husband evacuated their home to escape Hurricane Katrina. The hurricane rendered their home uninhabitable. It was flooded to a depth of at least five feet, had a hole in the roof, and developed mold and mildew from floor to ceiling.

93. Mr. Hagler applied for FEMA benefits for the household on September 14, 2005, and FEMA informed him that the household was eligible for assistance.

94. On October 14, 2005, the Haglers visited the Disaster Recovery Center in St. Bernard parish to explain their housing needs and to provide the address of property on which they could place a FEMA trailer. They explained Ms. Hagler's need for accessible housing.

95. On November 17, 2005, FEMA representatives visited the property, told them that the site was approved for a trailer, and said that they would be provided a 10' by 40' or 10' by 50' "ADA trailer."

96. On January 6, 2006, FEMA delivered and installed an 8' by 30' trailer on the Haglers' site. A ramp was built the following day.

97. However, the trailer is not wheelchair accessible. There is no space for Ms. Hagler to roll under the kitchen or bathroom sinks, and she cannot use the shower. As a result, she continues to be almost completely dependent on others for her personal care.

98. Ms. Hagler and her husband contacted FEMA numerous times about the inaccessibility features of the trailer. However, FEMA told them that they are not able to help.

### **Angela Breaux Hardy**

99. Before Hurricane Rita, Ms. Hardy lived alone in her own home. She was able to

use her electric wheelchair in her house. The rooms were big enough for her to wheel around in.

The bathroom was accessible, with grab bars to the side of the toilet, so she could transfer by herself onto the toilet. Ms. Hardy could go to the restroom without any help. She showered shower by myself.

Her independence is important to her. She has personal care services during the day, and her daughter is with her much of the time, but she likes to be by herself in the evenings.

100. Ms. Hardy went with her daughter to the FEMA office in Abbeville to fill out paperwork and obtain a trailer. Ms. Hardy and her daughter told FEMA that she needed room for her hospital bed and wheelchair, and that she needed a ramp to the trailer, grab bars around the toilet, and a handicapped shower—that she could not climb in and out of a bathtub. Ms. Hardy and her daughter told FEMA not to put a bed in the trailer because Ms. Hardy would use her hospital bed. The FEMA personnel told Ms. Hardy that it would put in a request for a handicap trailer.

101. She received a FEMA trailer in early January.

102. She cannot enter and exit the trailer by herself because it has 2 inch lip at the entrance that she cannot get over in a wheelchair.

103. The trailer has a queen-sized bed which she can't use or remove, so she has had to put her hospital bed in the living room, where it blocks the main heater and sofa, so they can't be used.

104. She cannot use the toilet safely by herself because the grab bars are behind the toilet and vertical, and she can't turn her wheelchair around near the toilet. She has fallen trying to use it by herself. She cannot bathe herself in the trailer because it has a bathtub that is too small for her shower chair, so she has to bathe at her daughter's house.

105. As a result of the lack of accessibility of her trailer, she has to spend a lot of time at her daughter's, and her loss of independence and privacy makes her very sad.

### **Robert Thomas Harris**

106. Robert Thomas Harris applied for FEMA assistance over the phone about a week and a half after the storm. FEMA found him eligible for assistance.

107. In early November 2005, the Red Cross filled out a FEMA application for temporary housing on his behalf. He told the person filling out his form that he needed an accessible trailer, including a ramp, a shower with grab bars, a raised toilet, and a place to pull up a chair under the bathroom and kitchen sinks.

108. FEMA gave Mr. Harris a trailer on November 22, 2005. The trailer has a ramp but lacks other accessibility features. He cannot use the bathtub because the side is too high for him to step over and there are no grab bars. He has also fallen trying to take a shower. As a result, Mr. Harris has not been able to take a shower or bath since he moved in. It is hard for him to use the toilet because there are no grab bars and no wall on which to mount any grab bars. There is no space under the kitchen for him to put a chair so he can sit while he uses the sink. There is no appropriate access to the trailer. For example, Mr. Harris has fallen walking around the trailer park because the gravel roads and muddy driveway are uneven surfaces.

109. Mr. Harris told a FEMA representative when he moved in that he had requested an accessible trailer. The FEMA representative said it was an "ADA trailer.

### **Eugene Joseph Johnson**

110. Shortly after Hurricane Katrina, FEMA placed Mr. Johnson and his wife in a small camper trailer in Perkinston, Mississippi. FEMA never asked what type of trailer Mr. Johnson needed.

111. The camper trailer is not accessible for Mr. Johnson. He has a hard time using the steps up to the trailer because he is unsteady on his feet and there is no railing. He has fallen on the steps. It is difficult for him to use the bathtub because it is small and there is no railing, and he has fallen in the tub. He needs a walk-in shower with rails or a tub that is large enough to hold a shower chair.

112. Shortly after they moved into the trailer, Mr. Johnson's wife called FEMA to explain that they needed a larger trailer because of Mr. Johnson's condition. FEMA told Mrs. Johnson that they would reassess their need. That did not happen for a few months. In early February, FEMA told Mrs. Johnson that they were on a list for a larger trailer, but they have not received one.

113. Over two months ago Mr. Johnson requested that FEMA build a porch ramp or install rails to the stairs to the trailer. When they called FEMA to ask about the rails and ramp, FEMA said they are still on the list.

### **Victoria Sumrall**

114. Ms. Victoria Sumrall is 21 years old. She has congestive heart failure and lung disease as well as post-polio syndrome, and will need knee replacement surgery on both of her knees. She has severe joint degenerative disease in both of my legs, feet, and ankles. She weighs approximately 400 pounds.

115. Ms. Sumrall's various disabilities make it difficult for her to walk or stand for long periods. She uses a walker, and cannot climb steps without extreme pain. Ms. Sumrall is highly susceptible to falling when forced to walk without her walker or when attempting to climb steps, and has fallen twice in such situations since Katrina, exacerbating her condition even further.

116. Ms. Sumrall's home is now uninhabitable following Katrina, due to approximately seven feet of area flooding with approximately 4 1/2 feet of interior flooding, as well as roof damage. All of her personal property was destroyed.

117. Ms. Sumrall applied for FEMA benefits over the phone within two weeks of Hurricane Katrina. Ms. Sumrall was found eligible.

118. In October 2005, a FEMA representative called to interview Ms. Sumrall about her need for a trailer. She explained that she would need a larger trailer and one accessible to people with disabilities due to her need for a walker and her size. She also specifically indicated that she would need a trailer with a ramp.

119. In mid-November, Ms. Sumrall again provided the same information, and again noted her accessibility needs. She further advised that she had space available for a trailer in New Orleans, LA. The space is large enough for an ADA accessible trailer.

120. On February 6, 2006, Ms. Sumrall called to check the status of her trailer. She was told that her application had been processed on October 31, 2005, but that nothing else had been done since that date. She again advised of the need for the various accessibility features, and was told that she should qualify for an ADA mobile home.

### **Terry West**

121. Terry West applied for FEMA assistance over the phone soon after the hurricane. In mid-September 2005, he applied in-person for a FEMA trailer at the Disaster Recovery Center in Waveland, Mississippi. He requested an accessible trailer that could accommodate two people in wheelchairs and explained that he and his wife are both wheelchair users.

122. FEMA has given 4 different trailers to Mr. West and his wife. None have been accessible. The first trailer was a small camper trailer and the wheelchairs could not fit through

the door.

123. The FEMA contractor delivered a second trailer, but the bathroom was inaccessible. A different FEMA contractor delivered a third trailer. Mr. West needs a shower because he cannot stand up to get into and out of a tub, but the trailer had a bathtub. Mr. West told the contractor that he could not use the bathtub.

124. The fourth trailer was delivered in mid-December 2005. Initially, it had no entrance ramp and the bedrooms were so small that he and his wife could not get both their wheelchairs into any of the bedrooms. The Wests need their wheelchairs next to the bed so they can transfer from the bed to their wheelchairs in the morning, without having to stand up. They also have to charge their wheelchairs each night, because they are electric, and they could not fit both chairs into the bedroom to charge them and have them nearby for the next morning.

125. A contractor added a ramp and eventually removed a wall and a closet to make one bedroom that was big enough for both wheelchairs. These renovations were not completed until late December 2005. Mr. West had to make several calls to get the renovations done.

126. The trailer continues to be inaccessible in other ways. The oven, stove, sink, and counter tops in the kitchen are too high for wheelchair users. In addition, it is difficult for Mr. West to transfer from his wheelchair to the toilet because the toilet is too close to the wall. Mr. West showed the kitchen to FEMA employees and explained why it was not accessible. The FEMA employees said there was nothing they could do about it.

127. Mr. West is still waiting for a trailer that is truly accessible for him and his wife.

**Anita M. Wilson**

128. When Anita Wilson was staying in a Red Cross Shelter, and the shelter was closing, she told the FEMA workers who were arranging housing for shelter residents that she

needed accessibility features such as a ramp, a toilet with a raised seat and grab bars, and an accessible bathtub or shower.

129. FEMA placed Ms. Wilson in a mobile home in late October 2005 but it did not have a ramp or the features necessary to make the bathroom accessible to her, including a raised toilet, grab bars for the bathtub, and a bathtub seat. A FEMA representative told her there were no accessible trailers immediately available, but that the accessibility features could be added later.

130. It is very difficult for Ms. Wilson to transfer from her wheelchair to the toilet, and to get in and out of the bathtub in her FEMA trailer, because of the lack of accessibility features. She does not feel safe in making these transfers because the lack of grab bars and the height of the toilet. She needs assistance simply to enter and exit her trailer.

131. FEMA has not added the accessibility features despite Ms. Wilson's requests nor has she been given a different accessible trailer.

## **VIII. STATUTORY AND REGULATORY SCHEME**

### **Section 504 of the Rehabilitation Act**

132. Section 504 of the Rehabilitation Act ("Section 504") provides that "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by an Executive agency or by the United States Postal Service." 29 U.S.C. § 794(a).

133. An "individual with a disability" is defined under the statute, in pertinent part, as "an individual who has a physical or mental impairment which substantially limits one or more

of such person's major life activities." 29 U.S.C. § 705(20)(A); (*see also* 44 C.F.R. § 16.103, defining "individual with handicaps," the older term used in the regulations).

134. Section 504 requires the head of every executive agency to promulgate regulations as shall be necessary to carry out the Act. 29 U.S.C. § 794(a).

135. FEMA Section 504 regulations provide that "no qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency." 44 C.F.R. §16.130(a).

136. These regulations further define "discrimination" to prohibit FEMA, in providing any aid, benefit, or service, from directly, or, through contractual, licensing, or other arrangements, on the basis of handicap, from:

- a) "Deny[ing] a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;" 44 C.F.R. § 16.130(b)(1)(i);
- b) "Afford[ing] a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded to others;" 44 C.F.R. § 16.130(b)(1)(ii);
- c) "Provid[ing] a qualified individual with handicaps with aid, benefit, or service that is not as effective in affording an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;" 44 C.F.R. § 16.130(b)(1)(iii);
- d) "[U]tiliz[ing] criteria or methods of program administration the purpose or effect of which would . . . defeat or substantially impair the objectives of a program

or activity with respect to individuals with disabilities." 44 C.F.R. § 16.130(b)(3)(ii).

e) "[u]tiliz[ing] criteria or methods of administration the purpose or effect of which would . . . subject qualified individuals with disabilities to discrimination on the basis of handicap;" 44 C.F.R. § 16.130(b)(3)(i);

(f) "Otherwise limit[ing] a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service; 44 C.F.R. § 16.130(b)(1)(vi);

137. The regulations require FEMA to "operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps." 44 C.F.R. § 16.150(a).

138. For new construction and alterations, "[e]ach building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act . . . [ ] apply to buildings covered by the Section 504 FEMA regulations. 44 C.F.R. § 16.151.

139. "Qualified individual with handicaps" is defined as "an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity." 44 C.F.R. § 16.103.

140. FEMA's Section 504 regulations require FEMA to "make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provision of this regulation and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured

them by Section 504 and this regulation." 44 C.F.R. § 16.111.

141. FEMA's Section 504 regulations incorporate the "definitions, standards, and requirements" of the Architectural Barriers Act, 42 U.S.C. § 4151-4157 ("ABA") . . ." 44 C.F.R. § 16.151.

### **The Architectural Barriers Act**

142. The Architectural Barriers Act requires the Secretary of the U.S. Department of Housing and Urban Development ("HUD"), in consultation with the Secretary of the U.S. Department of Health and Human Services, to prescribe standards for the design, construction, and alteration of buildings which are residential structures subject to the Act, "to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings." 42 U.S.C. § 4153.

143. Under the ABA, "building" is defined, *inter alia*, as any building "constructed or altered on behalf of the United States, the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons." 42 U.S.C. § 4151. Only privately owned residential structures not leased by the government for subsidized housing programs, and buildings or facilities on a military installation designed and constructed primarily for use by able-bodied military personnel, are excluded from the definition.

144. HUD regulations prescribe standards for the design, construction, and alteration of publicly owned residential structures "to insure that physically handicapped persons will have ready access to, and use of, such structures. 24 C.F.R. § 40.1.

145. The regulations define "residential structures," *inter alia*, as residential structures other than privately owned residential structures and residential structures on military

reservations that are constructed or altered by or on behalf of the United States, or financed in whole or part by the United States if constructed or altered in accordance with plans or specifications of the United states." 24 C.F.R. § 40.2(a). It includes "any residential structure which, in whole or in part, is intended for occupancy by the physically handicapped or designed for occupancy by the elderly." 24 C.F.R. § 40.2(b).

146. The regulations provide that residential structures subject to the regulations must comply with the Uniform Federal Accessibility Standards (UFAS). 24 C.F.R. § 40.4.

147. UFAS defines "housing" to include mobile homes. UFAS § 3.5.

148. UFAS establishes standards to ensure that dwellings have wide enough doorways, sufficient maneuvering room, accessible controls and storage spaces, safe stairways and ramps, and usable kitchens and bathrooms, for people who use wheelchairs or otherwise need accessibility features. UFAS §§ 4.1; 4.2; 4.9; 4.27; 4.35; 4.35; 4.43.

### **Fair Housing Act**

149. Under the Fair Housing Act, "it is unlawful to . . . discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to a buyer or renter because of the handicap of (A) that buyer or renter, (B) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (C) any person associated with that buyer." 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a).

150. In addition, "it is unlawful to . . . discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of (A) that buyer or renter, (B) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (C) any person associated with that buyer." 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).

151. "Discrimination" is defined to include "a refusal to make reasonable accommodations in policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling ." 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204.

152. "Dwelling" is defined, *inter alia*, as "any building or structure, or portion thereof which is occupied as or intended for occupancy as, a residence by one or more families." 42 U.S.C. § 3602(b).

153. "Handicap" is defined, *inter alia*, as "(1) a physical or mental impairment that substantially limits one of more of such person's major life activities, . ." 42 U.S.C. § 3602(h).

#### **Stafford Act**

154. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), 42 U.S.C. § 5121 *et seq.*, the President, following a request by the Governor of the affected State(s), may declare that a major disaster or emergency exists and then authorize various forms of disaster relief. 42 U.S.C. § 5170.

155. One type of assistance authorized by the Stafford Act is Temporary Housing Assistance, which consists of (i) "financial assistance" and (ii) "direct assistance" (collectively referred to as "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). "Direct assistance," sometimes known as "trailer assistance," enables disaster victims to receive temporary housing units, such as a trailer or mobile home where, for example, rental assistance is unavailable due to a lack of rental housing. 42 U.S.C. § 5174(c)(1)(B)(I).

156. Victims of 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).

157. Assistance is available for up to 18 months from the date that the President declares a disaster, but it may be extended beyond that time. 42 U.S.C. § 5174(c)(1)(B)(ii); 44 C.F.R. § 206.110(e).

158. The Stafford Act mandates that "the processing of applications, and other relief and assistance activities, shall be accomplished in an equitable and impartial manner ..." 42 U.S.C. § 5151(a); 44 C.F.R. § 206.11(b).

## **FIRST CLAIM FOR RELIEF**

### **Violation of Section 504 of the Rehabilitation Act Failure to Provide and Delays in Providing Accessible Trailers**

**159.** FEMA's failure to provide accessible trailers to plaintiffs and similarly situated class members, and defendants' delays in providing accessible trailers, excludes them from participation in and denies them the benefits of FEMA's housing assistance program, affords plaintiffs and similarly situated class members with an opportunity to participate in and benefit from the program that is not equal to that afforded to others, and uses methods of program administration that has a discriminatory effect and that defeat or substantially impair the objectives of the FEMA housing assistance program for plaintiffs and similarly situated class members, and denies program access to plaintiffs and similarly situated class members in violation of Section 504 of the Rehabilitation Act and implementing regulations.

## **SECOND CLAIM FOR RELIEF**

### **Violation of Section 504 of the Rehabilitation Act Failure to Replace or Modify Inaccessible Trailers**

160. FEMA's failure to replace or modify plaintiffs' inaccessible trailers so that plaintiffs have accessible trailers excludes them from participation in and denies them the benefits of FEMA's housing assistance program, affords plaintiffs and similarly situated class members with an opportunity to participate in and benefit from the program that is not equal to that afforded to others, uses methods of program administration that has a discriminatory effect and that defeat or substantially impair the objectives of the FEMA housing assistance program for plaintiffs and similarly situated class members, and denies program access to plaintiffs and similarly situated class members, violates Section 504 of the Rehabilitation Act and implementing regulations.

## **THIRD CLAIM FOR RELIEF**

### **Violation of the Fair Housing Act**

#### **Failure to Provide Accessible Trailers**

161. FEMA's failure to provide plaintiffs and similarly situated class members with accessible trailers and to replace inaccessible trailers with accessible ones discriminates against plaintiffs and class members in the provisions of services and facilities because of a handicap violates the Fair Housing Amendments Act and implementing regulations.

## **FOURTH CLAIM FOR RELIEF**

### **Violation of the Fair Housing Act Failure to Have Policies and Practices Necessary to Provide Accessible Trailers**

162. FEMA's failure to provide plaintiffs and similarly situated class members with

accessible trailers, failure to have policies and practices that ensure that people who need accessible trailers obtain them, and failure to collect the information it needs to provide accessible trailers to those entitled to them is a refusal to make reasonable accommodations in policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling, in violation of the Fair Housing Amendments Act and implementing regulations.

### **FIFTH CLAIM FOR RELIEF**

#### **Violation of the Stafford Act Failure to Process Applications and Provide Relief Equitably**

163. Each of the above described violations of Section 504 is also a violation of the Stafford Act mandate that FEMA’s “processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner ...” 42 U.S.C. § 5151(a).

164. FEMA’s failure to provide plaintiffs and class members with timely accessible trailers and to replace or modify inaccessible trailers violates the Stafford Act mandate that FEMA provide “an orderly and continuing means of assistance” under 42 U.S.C. § 5121 and 44 C.F.R. § 206.3 as well as 42 U.S.C. § 5151(a).

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs request that this Court:

(1) Declare that FEMA’s failure to provide accessible trailers to Plaintiffs and similarly situated class members, and FEMA’s delays in providing accessible trailers to Plaintiffs and similarly situated class members, violates Section 504, the FHA, the Stafford Act, and implementing accessibility regulations.

(2) Declare that FEMA’s failure to replace or modify inaccessible trailers so that

Plaintiffs and similarly situated class members have accessible trailers violates Section 504, the FHA, the Stafford Act, and implementing accessibility regulations.

(3) Plaintiffs and similarly situated class members request preliminary and permanent injunctions requiring FEMA to:

- a. Provide Plaintiffs and similarly situated class members with accessible trailers that reasonably accommodate their individual needs.
- b. Modify trailers previously provided in order to make them accessible to Plaintiffs and similarly situated class members.
- c. To the extent that fully accessible trailers are not immediately available, provide adaptive equipment to make up for the structural barriers as much as possible.
- d. To extend FEMA-sponsored hotel stays for evacuees waiting for accessible trailers.
- e. Implement a system to:
  - i. Identify persons with disabilities and their needs for accommodation in the provision of temporary housing assistance;
  - ii. Inform persons with disabilities about their right to accessible temporary housing and the means for requesting and obtaining same, including the types of trailer models available and the accessible features of each model, so persons with disabilities know which models to request;
  - iii. Determine whether class members who have already received trailers have trailers that meet their access needs, and inform them of how to request accessible trailers or modifications to trailers if their current trailers are not

accessible for them;

iv. Enable Plaintiffs and similarly situated class members whose trailers are not accessible to register complaints and for those complaints to be promptly addressed.

d. Implement a system for monitoring FEMA's provision of accessible housing on a timely basis.

e. Present a plan, subject to the court's approval, that sets forth how it will achieve the above-requested relief, with deadlines, and how it will accommodate individuals until they receive accessible trailers.

(4) Award reasonable attorneys fees and costs.

(5) Award other appropriate and just relief.

Dated: February 16, 2006

Respectfully submitted,

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Nell Hahn, T.A., Louisiana Bar No. 22406  
ADVOCACY CENTER  
600 Jefferson St., Suite 812  
Lafayette, LA 70501  
Tel. (337) 237-7380  
Facsimile: (337) 237-0486

Melissa Losch, Louisiana Bar No. 26811  
ADVOCACY CENTER  
2704 Wooddale, Suite B  
Baton Rouge, LA 70805-7541  
Tel. (225) 925-8884  
Facsimile: (225) 925-9625

WELFARE LAW CENTER, INC.  
Marc Cohan, Esq.  
Cary LaCheen, Esq.  
275 Seventh Avenue, Suite 1506  
New York, New York 10001  
Tel. (212) 633-6967

MISSISSIPPI CENTER FOR JUSTICE  
Reilly Morse, Esq.  
736 N. Congress  
P.O. Box 1023  
Jackson, MS 39215  
Tel. (601) 352-2269

THE PUBLIC INTEREST LAW  
PROJECT

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

Counsel for Plaintiffs