



waivers of other statutory requirements in the interests of timely and effective assistance for disaster victims. Congress does this because of the long history of federal and local discrimination against Hispanic and Black families in the provision of disaster relief funding. The federal and state defendants in this case are continuing that legacy of discrimination and segregation.

3. The Defendants have approved the allocation of 75% of the funding to meet unmet housing needs for homeowner only eligible programs, including programs for direct payments to homeowners. This group includes 73% of White, non-Hispanic households in the disaster area. The federal and state defendants have approved the allocation of only 25% of the unmet housing need funds for renters using only a single program that will pay developers to acquire or build rental units. The renter group includes only 27% of White non-Hispanic households in the area while including 50% of the minority households in the area. This allocation policy will steer the disaster relief funding away from Black and Hispanic neighborhoods into non-Hispanic White neighborhoods thereby increasing the disadvantages imposed by prior racially discriminatory disaster relief efforts on Hispanic and Black neighborhoods. The deprivation of funding for low income Black and Hispanic neighborhoods perpetuates unequal conditions and injure both homeowner and renter households within those neighborhoods.

4. Plaintiffs are low-income Hispanic and Black homeowners and renters living in racially segregated, predominantly minority, low-income neighborhoods in the Texas cities of Beaumont, Galveston, Houston, and Port Arthur. Plaintiffs suffered direct injuries to their homes from the Hurricane Harvey Disaster (Disaster). Plaintiffs' neighborhoods were damaged by the Disaster. The U.S. Congress has appropriated \$5 billion dollars for the unmet housing need in the areas subjected to the major impact of the Disaster.

5. The State Defendants, The Texas General Land Office (GLO) and the Texas Land Commissioner, adopted policies that distribute the funding in a racially discriminatory manner. One set of policies allocates the funding for housing by providing 75% of the funding for homeowners only and 25% for a renter program. This disproportionately disadvantages Black and Hispanic renter households and neighborhoods with predominantly Black and Hispanic residents. The policy provides a preference in funding to the disproportionately White non-Hispanic group, homeowners, and to the disproportionately owner occupied White non-Hispanic neighborhoods.

6. Another policy restricts eligibility for direct financial benefit programs to homeowner households and excludes renter households. This policy disadvantages the disproportionately Black and Hispanic group, renters, and provides a preference to the disproportionately White non-Hispanic group, home owners.

7. The State Defendants' policies will perpetuate racial segregation and unequal neighborhood living conditions, including the conditions in Plaintiffs' own neighborhoods. These conditions affect all residents in these areas-both homeowner and renter households. These conditions have been exacerbated by similar racially discriminatory policies that were implemented in prior disaster relief efforts.

8. The United States Department of Housing and Urban Development (HUD) has approved GLO's policies and the resulting allocation, despite the resulting discriminatory effects. The GLO policies and HUD's approval of the policies violate the clear intent of Congress that the Disaster relief funds are not to be used to continue racial discrimination. The State Defendants and HUD actions implementing and approving the challenged policies violate the laws and Constitution of the United States. Plaintiffs seek relief directing GLO and HUD to

correct the disproportionate allocation and provide for a fair and non-discriminatory allocation policy to meet the unmet housing needs related to the Disaster.

## **II. Jurisdiction**

9. The Court has jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. 3613(a)(1)(A). The right to judicial review of the claim for HUD's violations of the Fair Housing and the accompanying waiver of sovereign immunity is provided by 5 U.S.C. § 702. The right to judicial review and the absence of sovereign immunity for the claim that HUD officials are violating the equal protection principle included in the Fifth Amendment to the United States Constitution is constitutional. Sovereign immunity does not bar a suit to enjoin unconstitutional actions by a federal officer. *Larson v. Domestic and Foreign Commerce Corp.*, 337 U.S. 682, 690B91 (1948); *Pollack v. Hogan*, 703 F.3d 117, 120 (D.C. Cir. 2012).

10. This Court has jurisdiction over the State Defendants pursuant to 28 U.S.C. § 1331, and 28 U.S.C. § 1343 for the violations of 42 U.S.C. § 2000d. The State's Eleventh Amendment immunity under Title VI of the 1964 Civil Rights Act is waived by 42 U.S.C. § 2000d-7.

11. The Texas General Land Office Commissioner has no Eleventh Amendment immunity from claims brought pursuant to 42 U.S.C. § 1982, the Fair Housing Act, 42 U.S.C. § 3601, et seq. and the Equal Protection Clause of the Fourteenth Amendment. This Court has jurisdiction over the GLO Commissioner pursuant to *Ex Parte Young*, 209 U.S. 123, 155-56 (1908).

## **III. Parties**

### **Plaintiffs**

12. Plaintiffs are Black and Hispanic renters and homeowners residing in the counties that Defendant HUD designated as the counties most impacted by the Disaster. The Plaintiffs are

residents of low income, Black and Hispanic neighborhoods located in Beaumont, Galveston, Houston, and Port Arthur. Plaintiffs are members of protected classes under Title VI of the Civil Rights Act of 1964. Plaintiffs' facts are set out in Section X of this Complaint.

### **Defendants**

13. Defendant, The United States Department of Housing and Urban Development, (HUD) is the federal agency with the legal obligation to administer the Community Development Block Grant - Disaster Relief program (CDBG-DR).

14. Defendant Ben Carson is sued solely in his capacity as HUD Secretary. The Secretary's responsibilities include overseeing the CDBG-DR program.

15. Defendant, the State of Texas General Land Office, is the State of Texas agency with the legal obligation to administer the CDBG-DR program pursuant to the HUD approved State Action Plan.

16. Defendant, Commissioner of the General Land Office, George P. Bush, is sued solely in his official capacity as the chief executive officer of GLO. He has the duty under Texas law to superintend, control, and direct the operations of GLO. Tex. Nat. Res. Code Ann. § 31.051.

### **IV. Facts**

#### **Hurricane Harvey**

17. Hurricane Harvey made landfall on August 25, 2017 in Rockport, Texas as a category 4 hurricane with 150-mile-per-hour winds. As Hurricane Harvey moved inland, it slowed and stalled over the Houston area for four days. The storm remained stalled for two days during which the Texas coastal areas received unprecedented amounts of rainfall. According to the National Weather Service, Hurricane Harvey was a 1,000 year flood event, dropping a record 34

trillion gallons of rainfall on Southeast Texas. Hurricane Harvey is the highest-ever recorded rainfall for a tropical storm in the United States of America since rainfall records began in 1880. The storm caused over \$125 billion in damage and flooded over 500,000 cars and 300,000 structures.

18. Forty-nine counties in Southeast Texas were designated as a federal disaster area for Hurricane Harvey. Federal Emergency Management Agency (FEMA) received nearly 900,000 individual housing assistance applications and approved over 370,000 applications a total of \$1.6 billion in damages. In total, approximately thirty percent of occupied housing units were damaged by the storm in Houston alone. At the time of the Disaster, there was already a shortage of affordable, low-income housing in Houston. The storm damaged more than 204,000 homes in the Southeast Texas region.

**Racial and ethnic segregation in the Disaster area**

19. The individual communities and the 49 county area have been and are racially and ethnically segregated by neighborhoods. The evidence for this fact includes the past and present U.S. Census data for these areas. The most current U.S. Census American Community Survey 5 year 2013-2017 data show the current racial and ethnic segregation in the Disaster area. Only 17% of Black persons and 21% of Hispanic persons live in majority White non-Hispanic census tracts. Yet 67% of White non-Hispanic persons live in majority White non-Hispanic census tracts. The segregation is higher when census block groups or blocks are used as the measure. Similar racial and ethnic segregation exists within each of the 49 counties.

20. The continued racial, ethnic, and overlapping income segregation and the resulting unequal conditions in the area is shown by local government reports including The Houston-Galveston Area Council Fair Housing Equity Assessment.

21. The continued racial, ethnic, and overlapping income segregation and the resulting unequal conditions in the area is shown by the HUD Affirmatively Furthering Fair Housing data, maps, and tables for the area.

22. This racial and ethnic segregation has been caused by HUD, State, and local government actions. The actions included prior de jure and overt racial segregation and by the governments' failure to end the practices that have continued the separate and unequal effects of racial segregation on housing and other neighborhood conditions in the individual communities and in the 49 county area. The racially segregated and unequal effects of racial segregation on housing and other neighborhood conditions have been perpetuated by the governments' failures to take the affirmative action to remedy the continuing effects of racial segregation.

23. The facts showing the government actions perpetuating racial and ethnic segregation in the area are shown by government studies, public records, scholarly studies, federal and state agency investigations, and court decisions.

#### **V. HUD's Actions Are Final Agency Action**

24. HUD's sovereign immunity is waived pursuant to the Administrative Procedure Act (APA) 5 U.S.C. § 702 because of the final agency action by HUD in approving the allocation and contract with the State Defendants.

25. The U.S. Congress has allocated to the State of Texas \$5.676 billion in CDBG-DR funding to meet the unmet housing needs and other recovery needs from Hurricane Harvey. HUD administers the CDBG-DR funding from the Congressional allocation.

26. With the allocation, Congress stated that HUD is not permitted to waive requirements relating to fair housing or nondiscrimination in the administration of these funds. P.L. 115-56, Sept 8, 2017.

27. Instead of administering the disaster relief program by regulation, HUD issued a federal register notice of “Allocations, Common Application, Waivers, and Alternative Requirements for 2017 Disaster Community Development Block Grant Disaster Recovery Grantees” (Notice) to effectuate the allocation of the CDBG-DR funds to Texas and other states and territories affected by disasters in 2017. The Notice was published in the Federal Register on February 9, 2018 at 83 FR 5844 (Feb. 9, 2018). In order to receive the grant of CDBG-DR funds, “grantees must submit to HUD an action plan for disaster recovery which will describe disaster recovery programs that conform to applicable requirements as specified in this notice. The [HUD] Secretary may disapprove an action plan as substantially incomplete if it is determined that the plan does not satisfy all the required elements identified in this notice.” *Id.* at 5849.

28. There are several requirements that Defendant HUD sets out in the Notice that are required for the State Action Plan. 83 Fed. Reg. 5847-5868. HUD requires that the State’s Action Plan “must identify the proposed use of all funds, including criteria for eligibility, and how the uses address necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared in 2017.” The Action Plan must conform to the specific HUD requirements, which were identified in the Notice.

29. The Action Plan must include an impact and unmet needs assessment. The needs assessment must, among other things, “[e]valuate all acts of recovery including housing (interim and permanent, owner and rental, single-family and multifamily, affordable and market rate, and housing to meet the needs of persons who were homeless pre-disaster).” In addition, the assessment must “[d]escribe impacts geographically by type at the lowest level practicable (e.g., county level, zip code, neighborhood, or census tract).” *Id.* at 5849.

30. The Action Plan must include a “description of the connection between identified unmet needs and the allocation of CDBG-DR resources. Grantees must propose an allocation of CDBG-DR funds that primarily considers and addresses unmet housing needs.” *Id.* at 5849.

31. The Action Plan must also include a description of how it will identify and address the rehabilitation, reconstruction, replacement, and new construction of housing and shelters in the areas affected by the disaster. This includes any rental housing that is affordable to low- or moderate-income households, including tenants with vouchers and tenants who reside in housing assisted by a HUD program. *Id.* at 5849.

32. HUD also requires that the State Action Plan include:

A description of how the grantee’s programs will promote housing for vulnerable populations, including a description of activities it plans to address:

(a) The transitional housing, permanent supportive housing, and permanent housing needs of individuals and families (including subpopulations) that are homeless and at-risk of homelessness;

(b) the prevention of low income individuals and families with children (especially those with incomes below 30 percent of the area median) from becoming homeless; and

(c) the special needs of persons who are not homeless but require supportive housing (e.g., elderly, persons with disabilities, persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents).

Grantees must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low poverty, nonminority areas where appropriate; and will respond to natural hazard-related impacts. *Id.* at 5849-5850.

33. Pursuant to the Notice, the CDBG-DR funds cannot be obligated until HUD approves a state’s Action Plan for the use of the funds. Once HUD makes the required certifications and approves a state’s Action Plan, it signs the grant agreement allocating the CDBG-DR funds to the State. 83 FR 5852.

34. Defendant HUD approved the third and most recent amendment to the State of Texas's 2019 State Action Plan Amendment 3 on June 13, 2019 (2019 State Action Plan). The 2019 State Action Plan contains the challenged policies at issue in this case. The HUD approval of the 2019 State Action Plan is a final agency action within the meaning of the Administrative Procedure Act (APA), 5 U.S.C. § 551(13), where agency action is "the whole or part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act." The definition of "relief" under the APA, 5 U.S.C. § 551(11) includes the grant of money or remedy. HUD granted the CDBG-DR funds to the State of Texas by approving the 2019 State Action Plan.

35. The HUD approval of the 2019 State Action Plan is a final agency action within the meaning of 5 U.S.C. § 704. HUD approved the plan, made the certifications, entered into the grant agreement, and has obligated CDBG-DR funding to the State pursuant to the approved plan.

36. Defendant HUD has approved each of the State Action Plan amendments since its approval of the original State Action Plan on June 25, 2018. None of the amendments have altered the policies at issue in this lawsuit. Those policies remain in the amended plans.

37. As of January 2019, Texas had drawn down about \$18 million (of \$5 billion) for administration and planning only. U.S. Government Accountability Office, Disaster Recovery Better Monitoring of Block Grant Funds Needed, GAO-19-232, March 2019, Highlights page.

**VI. The 2019 State Action Plan's policies concerning the overall allocation of funding cause racially discriminatory effects and the policies are arbitrary, artificial and unnecessary.**

**A. The State Defendants' policy allocating disaster relief funding causes discriminatory effects.**

38. The State Defendants' policy allocating the CDBG-DR funding for unmet housing needs between owner housing needs and renter housing needs is set out on pages 55 - 57 of the State of Texas's Plan for Disaster Recovery: Amendment 3 Hurricane Harvey. The policy was approved by HUD. This policy allocates 82% or \$4.6 billion of the total \$5.7 billion CDBG-DR allocation. *See* The 2019 State Action Plan, page 148. The State Defendants' policy is based on their determination that 72% of the unmet housing need is owners' need and 28% is renters' need. *Id.* at 57. The actual allocation of the funds allocated pursuant to the policy is 76% for owner programs (\$3.5 billion) and 24% for renter programs (\$1.13 billion). *Id.* at 22, Table 5. The State Defendants' provision of the disaster relief funding for purchasing, constructing, improving, repairing, and maintaining dwellings is a residential real estate-related transaction under 42 U.S.C. § 3605.

39. The 2019 State Action Plan has a racially discriminatory impact-adversely affecting the disproportionately minority group renter households in the 49 county area consisting of the 20 HUD most impacted counties, the HUD most impacted Zip Codes outside of those counties, and the State designated additional 29 most impacted counties.

40. Renter families in the 49 counties are the most disadvantaged by the 2019 State Allocation Plan. This group is disproportionately Hispanic and Black compared to the predominately White, non-Hispanic homeowner families. In the 49 county area, 45% of all Hispanic occupied units are renters and 56% of all Black occupied units are renters. Only 27% of

all White, non-Hispanic occupied units are renters. *See* 2013-2017 U.S. Census American Community Survey 5-Year Estimates. These differences are statistically significant.

41. The disparity is statistically significant and demonstrates the robust causation between the policy and the injury to the disproportionately minority group, renters.

42. The policy is arbitrary, artificial, and unnecessary. HUD required the State Defendants to submit an unmet needs assessment in compliance with a specific obligation that the State Defendants overtly refused to follow. HUD requires that the unmet needs assessment must estimate unmet housing needs that do not include needs that will likely be met by insurance proceeds:

Estimate unmet needs to ensure CDBG-DR funds meet needs that are not likely to be addressed by other sources of funds by accounting for the various forms of assistance available to, or likely to be available to, affected communities (e.g., projected FEMA funds) and individuals (e.g., estimated insurance) and use the most recent available data to estimate the portion of need unlikely to be addressed by insurance proceeds, other Federal assistance, or any other funding sources (thus producing an estimate of unmet need); 83 FR 5849 (Feb. 9, 2018).

43. The State Defendants overtly refused to comply with this HUD requirement for the unmet needs determination. The policy refusing to exclude or discount the existence of insurance is set out in the notes to Table 56 in the 2019 State Action Plan page 146. Table 56 is the “Summary of Total Unmet Need. Both the “Owner-Occupied Housing” and the “Rental-occupied Housing” categories are qualified by the same note:

“\*\* Does not exclude or discount the estimated loss for those identified as having homeowners and/or flood insurance in FEMA’s IA data.”

44. The State Defendants’ refusal to estimate the portion of need likely to be addressed by insurance proceeds alone adds \$4.7 billion of housing need for the owners with homeowner’s

insurance in the FEMA IA data.<sup>1</sup> The refusal adds an additional \$323 million of housing need for the owners with no homeowners' insurance but who did have flood insurance as set out in the FEMA IA data. The exclusion of these amounts reduces the overall homeowners' unmet housing need from \$6.9 billion to \$2 billion. By contrast, the small amount of insurance for renter households, \$67 million, reduces the renter unmet need from \$2.7 billion to \$2.6 billion.

45. The inflated owner need allocation is arbitrary, artificial, and unnecessary.

46. The inflated owner need is arbitrary because it violates the HUD requirement.

47. The inflated owner need is artificial because it inflates the actual unmet need by more than \$4 billion dollars.

48. The inflated owner need is unnecessary because individuals with available insurance proceeds are barred from receiving CDBG-DR assistance for needs covered by the insurance. By excluding the consideration of homeowners', flood, or rental insurance from GLO's calculation of the unmet housing needs results in a less accurate and distorted assessment of the unmet housing needs. 42 U.S.C. § 5170; 84 FR 28836.

49. Further, the exclusion or discounting of the owner needs that may be covered by homeowners' insurance or flood insurance would significantly reduce the discriminatory effect of the State Defendants' allocation policy.

**B. Defendants' policy setting the data used to determine the owner/renter allocation of funds is racially discriminatory.**

50. HUD required the State of Texas to determine the unmet housing need in the 2019

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<sup>1</sup> The FEMA IA or Individual Applicants data is the data on the individual applicants for FEMA disaster relief made public by FEMA at <https://www.fema.gov/openfema-dataset-individual-assistance-housing-registrants-large-disasters-v1>

State Action Plan in order to receive the funding. To determine the unmet housing need, the State Defendants used a policy of choosing to include only owners who had over \$8,000 in real property FEMA-verified loss and only renters who had over \$2,000 in personal property FEMA-verified loss in the calculation of unmet housing need. *See* the 2019 State Action Plan pages 55 - 57. These arbitrary and subjective standards caused a racially discriminatory impact by excluding a disproportionate number of minority owner-occupied and renter-occupied households from the relative housing need by both income and by renter or owner groups.

51. The policy choosing to use the data and the minimum loss numbers was not required by HUD. The HUD Notice setting out the requirements for the unmet housing need determination does not even mention the use of the FEMA real property, FEMA-verified loss, or personal property FEMA-verified loss data. 83 FR 5849. HUD recommends the use of two forms of HUD's own housing planning data.

Grantees may use HUD's AFFH mapping tool (<https://egis.hud.gov/affht/>) or the CPD Mapping tool (<https://egis.hud.gov/cpdmaps/>) to inform their analysis. 83 FR 5849.

52. The State Defendants makes no use of the HUD recommended data. *See* 2019 State Action Plan.

53. The policy choosing to include only this FEMA IA data for the calculation of unmet housing need is arbitrary, artificial, and unnecessary.

54. The policy is arbitrary on its face. The State Defendants provide no basis for the \$8,000 and \$2,000 minimum verified loss. Without any justification to show a reasonable basis for the use of these values, the inference is that these minimums were chosen solely to justify a pre-determined outcome.

55. The use of the personal property verified value loss for renter unmet need is arbitrary, artificial, and unnecessary. The personal property verified value loss does not measure any damages to the rental unit, only damages to the tenants' personal property. The State Defendants do not show any non-arbitrary connection or correlation between personal property loss and real property damage for purpose of determining unmet housing need as required by HUD. 83 FR5849.

56. The use of the personal property verified value loss for renter unmet need is arbitrary, artificial, and unnecessary. The personal property FEMA verified loss and the arbitrary \$2,000 minimum result resulted in an unmet renter housing need of 37,746 renter units. Yet there is FEMA IA data available showing the extent and number of renter units damaged by the disaster that exceed 37,746 units by at least 130%. The State Defendants ignored this FEMA IA evidence of direct damage 54,074 renter units that needed repairs to disaster caused damage that made the units uninhabitable. FEMA found 52,196 renter units that had suffered either moderate damage (47,003) or major damage (5,193). FEMA found 71,211 renter units were inundated with flood water inside the units.

57. The State Defendants' policy using the personal property FEMA verified property loss and the arbitrary \$2,000 minimum to determine renter housing need is racially discriminatory. While 24% of the renters in the 90% or greater White non-Hispanic tracts were found to have a personal property FEMA verified loss greater than \$2,000, only 11% of the renters in the predominantly minority 10% or less White non-Hispanic census tracts were over \$2,000. The average personal property FEMA verified loss in the 90% or greater White non-Hispanic tracts was \$3,313. This is more than 1.45 times the average loss of \$2,279 in the less

than 10% White non-Hispanic census tracts. These differences are statistically significant.

58. By comparison, 43% of FEMA inspected owner occupied structures in 90% or greater White non-Hispanic census tracts had a FEMA property loss of \$8,000 or greater. Only 14% of FEMA inspected owner occupied structures with 10% or less White non-Hispanic census tracts had a FEMA property loss of \$8,000 or greater. An owner occupied unit in the 90% or greater White tract was over 3 times as likely to have an \$8,000 or greater loss than an owner occupied unit in the less than 10% White tract. The average FEMA owner loss in the 90% or greater White non-Hispanic tracts was \$13,645 which is more than three times the average FEMA loss of \$4,035 in the less than 10% White non-Hispanic census tracts. These differences are statistically significant.

**C. The refusal to exclude or discount owner housing needs that will be or have been met by homeowners' insurance or flood insurance causes discriminatory effects.**

59. The State Defendants' policy excluding and refusing to discount the possible unmet housing based on the existence of homeowners or flood insurance disadvantages renter households and causes a racially discriminatory result and perpetuates the discriminatory effect of the allocation policy. The policy refusing to exclude or discount the existence of insurance is set out in the notes to Table 56 in the State Action Plan amendment-3 page 146.

“\*\* Does not exclude or discount the estimated loss for those identified as having homeowners and/or flood insurance in FEMA's IA data.”

60. As set out above, the policy arbitrarily increases the owner unmet housing need in comparison to the renter unmet housing need. HUD prohibits the inclusion of housing needs likely addressed by insurance in the unmet housing needs assessment. 83 FR 5849. The arbitrary increase in owner unmet housing disadvantages renter disaster survivors by diverting CDBG-DR

funds away from that predominantly Hispanic and Black renter group to the disproportionately White non-Hispanic owner group.

**D. The State Defendants' policy to exclude FEMA IA data on the damage inflicted upon rental units has a racially discriminatory effect.**

61. The State Defendants' policy to exclude the FEMA IA data on the damage suffered by rental units has a racially discriminatory effect and perpetuates the discriminatory effect of the allocation policy. The only measure for unmet housing need for tenants used by the State Defendants was whether the family had a personal property FEMA verified loss of \$2,000 or more. The State Defendants' determined that only 37,746 renters had such a loss and based the unmet housing need allocation on that number.

62. The State Defendants' policy excludes substantial FEMA IA evidence of direct damage to substantially more than 37,746 renter units. FEMA found 54,074 renter units needed repairs to disaster caused damage that made the units uninhabitable for conditions threatening safety and health. FEMA found 52,196 renter units that had suffered either moderate damage (47,003) or major damage (5,193). FEMA found 71,211 renter units were subject to water levels inside the units. The exclusion of this evidence of physical damage to renter units perpetuated the discriminatory effect of the State Defendants' unmet housing need funding allocation policy.

63. The policy was arbitrary, artificial, and unnecessary. The personal property loss used by the State Defendants did not measure damage to renter units. Damage to personal property is not an unmet housing need. Damage to renter units make those units uninhabitable is evidence of unmet housing need. Moderate or severe damage to renter units is evidence of unmet housing need. Water level inundation up to 18 inches is evidence of Minor Damage. Water level inundation of more than 18 inches is evidence of Major Damage. FEMA Damages Assessment

Manual, A Guide to Assessing Damage and Impact, April 5, 2016, page 113. This is evidence of unmet housing needs of the renters that was not used in the State Defendants' calculation of unmet renter housing need.

**E. The existing race and ethnicity by tenure characteristics in the Disaster area have been caused by prior disaster relief programs that disproportionately selected owners for relief.**

64. There are two disaster relief related agency investigations showing the effect of prior Texas and HUD disaster relief decisions on the perpetuation of racial segregation in the Disaster area. One report is the HUD approved State of Texas 2011 Phase I Analysis of Impediments to Fair Housing (2011 Phase I Analysis) in the CDBG-DR program for prior hurricane disasters. The second is the December 1, 2009 Texas Low Income Housing Information Service Fair Housing Complaint against the HUD approved Texas disaster relief plans for Hurricanes Dolly and Ike and the resulting May 25, 2010 Final Compliance Agreement.

65. The predominantly Black and Hispanic neighborhoods in the individual communities and in the 49 county area were more vulnerable than White neighborhoods to severe damage by a hurricane even before Hurricane Harvey. This unequal vulnerability was a result of prior disaster relief actions by HUD, State, and local governments that gave preference to homeowners and to White neighborhoods. The long term, longitudinal studies based on disaster relief data for individual recipients show that the long-term inequalities in disaster recovery stem not just from pre-existing social vulnerabilities experienced by Blacks and Hispanics, or direct damages from local natural hazards, but also disproportionate benefits that non-Hispanic White residents receive from federal disaster assistance, directly or otherwise.

**VII. The refusal to provide direct financial assistance to renters while providing direct financial assistance to homeowners has a discriminatory effect on Black and Hispanic renters in the CDBG-DR eligible counties.**

66. The State Action Plan includes three distinct sections: the section administered by GLO on behalf of the State of Texas, the section administered by Harris County, and the section administered by the City of Houston. The State administers the homeowner programs and the Affordable Rental Housing program for all disaster areas outside of Houston and Harris County

67. The State Action Plan allocates funds for homeowner assistance programs that provide assistance directly to Hurricane Harvey survivors. All of these programs make homeownership at the time of the hurricane a prerequisite to eligibility. Renters are not eligible for any direct financial assistance.

68. The Harris County Plan is administered only in Harris County. This Plan also contains homeowner assistance programs with direct financial assistance available for homeowners damaged by Harvey. Renters are not provided with any direct financial assistance under the Harris County Plan.

69. The City of Houston Plan is administered by the City and is only for the City of Houston. This Plan also contains homeowner assistance programs with direct financial assistance available for homeowners damaged by Harvey. Renters are not provided with any direct financial assistance under the City of Houston Plan. The State Defendants and HUD have approved this plan as part of the State Action Plan.

70. The Defendants' State Action Plan approved by HUD includes several programs that will provide direct financial assistance to homeowners in addition to funding the repair or reconstruction of the homes. These programs include the payment of rent, security deposits, and

utility deposits and bills for the families to obtain housing on a short term basis. The State Action Plan makes tenants ineligible for this or any other form of direct rental financial assistance. This policy disadvantages a disproportionately Black and Hispanic group, renters, in comparison to the treatment of a disproportionately White non-Hispanic group, owners. GLO and the Commissioner administer the Homeowner Assistance programs in the State Action Plan for the CDBG-DR impacted counties outside of Harris County and the City of Houston. Black renters are 43% of all Black occupied units, Hispanic renters are 36% of all Hispanic occupied units, and White non-Hispanic renters are 24% of all White non-Hispanic occupied units in the GLO counties.

71. There is no program available under the State Action Plan that offers direct disaster recovery financial assistance to renters. The Affordable Rental Program of the State Action Plan does not provide for direct assistance to renters. Instead, it provides assistance to developers to construct a limited number of apartments that are not required to accept renters who have been displaced or injured by the hurricane.

72. The limited number of apartments to be built under the State Action Plan Affordable Rental Housing Program does not meet the unmet need for renters harmed by Hurricane Harvey. This rental housing will take years to build, and there is no requirement for this rental housing to accept renters who were injured by Hurricane Harvey. Plaintiffs need immediate rental assistance.

73. Defendants' denial of CDBG-DR financial assistance to renters makes housing unavailable to Plaintiffs because they are renters and, thus, ineligible for the direct financial assistance benefits for which homeowners are eligible.

74. The policy denying direct financial assistance for renters to obtain rental housing is arbitrary, artificial, and unnecessary. The need for decent, safe, and sanitary housing is not limited just to owners. The effectiveness of the direct financial assistance in obtaining rental housing is obvious and is shown by its inclusion as a benefit to owners seeking temporary rental housing. The provision of the assistance to renters is necessary for renters to obtain adequate housing.

75. The State Action Plan does not set out any interests served by the policy that renters are ineligible for direct financial assistance. If there are any such interests, the provision of such assistance is a less discriminatory alternative. The assistance can be provided from the CDBG-DR funds as an efficient and effective means for providing housing to disaster survivors.

**VIII. The challenged policies were adopted and approved because of discriminatory intent.**

76. The following facts set out the circumstantial supporting the existence of discriminatory intent in the adoption and approval of the State Action Plan. *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977) sets out the non-exhaustive description of circumstantial evidence that can support a finding of discriminatory intent. Plaintiffs do not have to prove malice or hostility is part of discriminatory intent. Deliberate treatment that avoids equal treatment for Blacks and Hispanics because of deference to other constituencies such as White homeowners is discriminatory intent.

**A. The extent of discriminatory effects caused by the challenged policies.**

77. The degree to which the challenged policies cause discriminatory effects on Hispanic and Black families is substantial as set out above. The disadvantages will exacerbate the existing racial segregation and unequal conditions in the area.

78. The Plaintiffs' neighborhoods and the other neighborhoods in the 49 county HUD and State Most Impacted area are substantially segregated by race and income. Their predominantly minority neighborhoods are disproportionately more likely to be lower income than the White, non-Hispanic neighborhoods. The neighborhood living conditions in the predominantly minority neighborhoods were disproportionately unequal before the Disaster. The GLO policy will steer the financial assistance necessary to remedy the unmet housing needs in Plaintiffs' neighborhoods to predominantly White, non-Hispanic neighborhoods. The implementation of the GLO allocation as approved by HUD will continue to make unavailable the financial assistance needed to meet the unmet housing need in those neighborhoods related to the Disaster. The cumulative effect will be to perpetuate and increase the unequal neighborhood living conditions in Plaintiffs neighborhoods.

79. The GLO policy will continue to subject Plaintiffs to the injuries of racial segregation. HUD's description of these injuries is:

Racially or ethnically concentrated areas of poverty merit special attention because the costs they impose extend far beyond their residents, who suffer due to their limited access to high-quality educational opportunities, stable employment, and other prospects for economic success. Because of their high levels of unemployment, capital disinvestment, and other stressors, these neighborhoods often experience a range of negative outcomes such as exposure to poverty, heightened levels of crime, negative environmental health hazards, low educational attainment, and other challenges that require extra attention and resources from the larger communities of which they are a part. Consequently, interventions that result in reducing racially and ethnically concentrated areas of poverty hold the promise of providing benefits that assist both residents and their communities. Affirmatively Furthering Fair Housing; Proposed Rule, 78 Fed Reg 43710, 43714, July 19, 2013.

**B. The historical background for the Defendants submission of the CDBG-DR Action Plan and the HUD approval of the plan is circumstantial evidence supporting the existence of discriminatory intent.**

80. The State Defendants and HUD have current knowledge of the racially segregated and unequal conditions in the Disaster areas. The State Defendants and HUD have knowledge of the need to take these conditions into consideration when developing, approving, and implement a disaster relief State Action Plan. This knowledge is shown by the 2011 Phase I Analysis of Impediments to Fair Housing conducted by the State's Department of Housing and Community Affairs. The Analysis was conducted pursuant to a conciliation agreement between the State and HUD settling a fair housing complaint against the State's Hurricane Ike/Dolly Action plan for CDBG-DR funding.

81. One of the primary items included in the conciliation agreement (included as Appendix A) was that the State would complete a Phase I Analysis of Impediments to Fair Housing for the areas within the Dolly and Ike impacted areas and submit the Phase I Analysis of Impediments to HUD for review by January 1, 2011.

82. The State Defendants submitted the Analysis and Defendant HUD approved it. The State described the Analysis of Impediments to Fair Housing as:

. . . a tool used by state agencies, and recipients and subrecipients of CDBG disaster recovery funds to promote the State's goal that infrastructure, housing and economic development projects affirmatively further fair housing within the impacted communities, as required by federal law. 2011 AI page 9.

**C. The specific sequence of events leading up to the challenged decision is circumstantial evidence supporting the existence of discriminatory intent.**

83. The administration of the previous federal and state disaster relief funds has been one cause of the existing unequal conditions in the 49 county area.

84. Defendants' previous administration of the disaster relief funding has perpetuated the racial segregation of minority communities in the disaster counties. Paragraphs 19-23 include facts for the racial segregation perpetuate by previous disaster relief funding.

**D. The State Action Plan's substantive departures from Fair Housing requirements for disaster relief acknowledged by the State and approved by HUD is circumstantial evidence supporting the existing of discriminatory intent.**

85. The HUD approved State of Texas 2011 Phase I Analysis of Impediments to Fair Housing (2011 Phase I Analysis) in the CDBG-DR program included specific standards for compliance with the obligation to affirmatively further fair housing. The standards were set by the State of Texas. The affirmatively furthering fair housing obligation requires HUD and the State Defendants to administer the housing elements of the disaster relief program to not only avoid illegal discrimination but to also contribute to preventing the increase of racial segregation and to achieving the goal of increasing the supply of open housing. While many of the standards involve procedural matters, some are substantive standards. The HUD approved State Action Plan for Hurricane Harvey relief departs from the following substantive standards that were established in 2011. These departures exacerbate the discriminatory effects of the State Action Plan allocation policy.

86. The State of Texas acknowledges the need for a successful opportunity program to provide mobility options for individuals or families who want to move from high concentrations of minorities and poverty and flood plains. 2011 Phase I Analysis, Appendix C, pages 10, 22. The State Allocation Plan does not include any provision for mobility options for individuals or families who want to move from high concentrations of minorities and poverty and flood plains. The absence of these options will perpetuate racial segregation in the disaster impacted areas.

87. The State of Texas acknowledges that disaster relief efforts are hampered by the barriers to free housing choice for housing voucher families.

Housing IMPEDIMENT #10. There are barriers to mobility and free housing choice for

Choice Voucher holders including: inadequate tenant counseling services and mobility assistance, failure of PHAs to apply for the FMR pilot demonstration, and government policies, procedures, and regulations that tend to decrease participation by private housing providers and to restrict available housing to “racially or low-income populated neighborhoods” with little access to economic, educational, or other opportunity. Appendix C, 2011 Phase I Analysis, page 10.

88. The 2019 State Action Plan guidelines prohibit discrimination against voucher families for all units developed with rental assistance funding. The 2019 State Action Plan does not include any element that addresses the Impediment # 10 barriers to the use of the voucher program in the disaster relief activities. The State Action Plan does not include any element that addresses the need for additional voucher assistance through the use of CDBG-DR funds or by applications for additional vouchers. The failure to implement the effective use of the voucher program will perpetuate racial segregation in the disaster area.

89. The State acknowledged the FEMA inaccuracies in the processing of the claims for FEMA disaster benefits and that these inaccuracies had an adverse effect on the disaster relief effort. Appendix C, 2011 Phase I Analysis, pages 17 - 19. The FEMA claims process data for the Harvey disaster shows the same evidence that protected classes under the Fair Housing Act were disproportionately and adversely affected by inaccurate FEMA damage determinations. The 2019 State Action Plan does not take this evidence into account in either its use of FEMA data for decision making or in providing funding and programs to help families wrongfully denied FEMA assistance. The use of the inaccurate data introduces a statistical bias against the

provision of relief to members of the Fair Housing Act protected classes.

90. The State acknowledged the need for a publicly available Government Information System database on the distribution of disaster relief funding for purposes of assessing the fair housing impacts of government funding decision utilizing federal funds. Appendix C, 2011 Phase I Analysis, page 10. The 2019 State Allocation Plan approved by HUD does not include funding for the database. The existence of this database would enhance compliance with the applicable civil rights obligations of the State and the local political subdivisions.

**E. The State Action Plan's departure from the HUD requirement to omit housing needs likely to be met by insurance proceeds steers funding away from the disproportionately Black and Hispanic renter group and is circumstantial evidence supporting the existence of discriminatory intent.**

91. As set out in paragraphs 42-43, the State Defendants overtly refused to comply with the HUD requirement at 83 FR 5849 that the unmet needs assessment must ensure that the assessed needs do not include housing needs likely to be met by insurance proceeds.

92. This departure from HUD's requirements has the discriminatory effect set out in paragraphs 50-60. The deliberate violation of a substantive requirement that causes a discriminatory effect is circumstantial evidence supporting the existence of discriminatory intent.

**IX. HUD has overtly exempted its consideration of the State Action Plan from the HUD 42 U.S.C. § 3608(e)(5) obligation to affirmatively further fair housing.**

93. 42 U.S.C. § 3608(e)(5) requires HUD to affirmatively further fair housing in its administration of the CDBG-DR program. Congress specifically prohibited fair housing requirements from being waived with the CDBG-DR allocation at issue in this case. Here, HUD's published notices and approvals of the State Action Plan do not require the State to provide the information necessary for HUD to comply with its own affirmatively furthering fair

housing obligation in its consideration of the application.

94. HUD has not gathered the information it must have to perform its minimal Title VIII obligation to evaluate the State Action Plan and alternative courses of action such as direct benefits to tenants in light of their effect upon fair housing. HUD's failure to even gather the required information violates 42 U.S.C. § 3608(e)(5).

95. HUD has overtly exempted its consideration of the State Action Plan from the HUD 42 U.S.C. § 3608(e)(5) obligation to affirmatively further fair housing.

96. The Fair Housing Act declares as its “policy” the provision of “fair housing throughout the United States.” 42 U.S.C. § 3601. The FHA requires HUD to administer its programs and activities relating to housing and urban development in a manner affirmatively to further the policies of the FHA. 42 U.S.C. § 3608(e)(5). This obligation requires more than HUD refraining from discriminating itself. HUD's obligation in considering the State Action Plan is to assess the elements of the plan by the effect on existing patterns of racial segregation, unequal treatment based on race, and the historic lack of equal access to opportunity without regard to race. HUD must then assess negatively those aspects of the proposed State Action Plan that would further limit the supply of genuinely open housing and assess positively those aspects of the action that would increase the supply of racially integrated and equal housing. *NAACP v. Sec. of Dept. of Housing and Urban Dev.*, 817 F.2d 149 (1st Cir. 1987).

97. HUD failed to evaluate the State Action Plan to determine any racially discriminatory or racially segregative effects on racial and ethnic groups in the areas impacted by Hurricane Harvey. The HUD notice setting out its requirements for the Action Plan and its proposed review of the proposed Action Plan omits any mention of HUD engaging in the required affirmatively

furthering fair housing review. 83 FR 5844, 5846. The notice specifically limits HUD's review of the proposed State Action Plans "to criteria identified in this notice." 83 FR 5846. The notice does not mention or otherwise identify the criteria for HUD's review under 42 U.S.C. § 3608(e)(5).

98. The only provisions for review of actions affirmatively furthering fair housing do not include any action by HUD prior to approving the State Action Plan. The provisions mentioning affirmatively furthering fair housing refer to actions taken by grantees after the Action Plan has been approved. 83 FR 5853, 5856. While the grantees certify that they will affirmatively further fair housing, 83 FR 5857, HUD makes no determination that HUD's approval of the Action Plan satisfies HUD's obligation to affirmatively further fair housing in HUD's consideration of the proposed Action Plan.

99. HUD has knowledge of the existing patterns of racial segregation, unequal treatment based on race, and the historic lack of equal access to opportunity without regard to race in the disaster relief area.

100. HUD's approval of the State Action Plan will perpetuate and increase the patterns of racial segregation, unequal treatment based on race, and the historic lack of equal access to opportunity without regard to race in the disaster relief area. As set out in this complaint, the discriminatory allocation policies approved by HUD will cause the discriminatory effects of disadvantaging a predominantly Black and Hispanic group, renters, compared to the treatment of a predominantly White, non-Hispanic group, home owners. The challenged policies will disadvantage the predominantly Hispanic and Black groups, residents of the Hispanic and Black neighborhoods in the disaster area, compared to the treatment of the residents of the White non-

Hispanic neighborhoods in the disaster area.

**X. Plaintiffs have been injured by Defendants CDBG-DR disaster relief allocation and policies.**

**Houston**

**Rodney Bob**

101. Plaintiff Rodney Bob is a Houston, Texas resident. He lives in a federally subsidized housing unit at Arbor Court. Mr. Bob is a Hurricane Harvey disaster survivor.

102. Mr. Bob is a Black, 44 year old, disabled, recipient of Social Security Disability which is his only source of income. He was living in his unit with his thirteen year old daughter at Arbor Court Apartments when Hurricane Harvey struck Houston. He was a resident at Arbor Court Apartments for five years and survived several significant flooding events during those years.

103. Arbor Court is located in a FEMA designated floodway and has flooded several times. The complex once included 232 low-income units in 16 buildings, but now many of those units are uninhabitable as a result of repeated flooding and neglect.

104. Mr. Bob was in his home when flooding from Hurricane Harvey began flowing into the Arbor Court apartment complex and into Mr. Bob's apartment. He evacuated to a friend's house until he could return to his apartment leaving him temporarily displaced from his home. Mr. Bob was denied FEMA renter's assistance because he did not have insurance.

105. During an April 2016 rain event that brought about significant flooding, Mr. Bob and his daughter lost their sole means of transportation, a 1985 Oldsmobile. After replacing the vehicle, the family lost yet another vehicle a 2006 Chevrolet Trailblazer during Hurricane Harvey.

106. Displaced by the storm, Mr. Bob has many unmet needs as a result of Hurricane Harvey. Under GLO's distribution plan, however, Mr. Bob will not receive CDBG-DR funds to assist with long-term recovery. There is no direct renter relief under the State Action Plan for renter households. Instead, the State Action Plan provides assistance to developers to construct a limited number of apartments that are not required to accept renters who have been displaced or impacted by the disaster.

107. Mr. Bob's circumstances are indicative of the households within his Arbor Court neighborhood. Mr. Bob resided in census tract 2405.02 where majority of the households are minority and renter households. Mr. Bob's neighborhood is racially segregated and has been for many years. The households in this census tract are 54% Black, 41% Hispanic, and 4% White non-Hispanic. The poverty rate is 44%. The neighborhood is 95% renter occupied and 5% owner occupied units. There are 814 vacant units in this tract. There was only one home loan in this tract in 2018.

108. According to the U.S. Department of Health and Human Services' Center for Disease Control and Prevention (CDC), the families in the census tract Mr. Bob lived in at Arbor Court were extremely vulnerable in a natural disaster. On a scale of zero to one, Mr. Bob's census tract has a very high Social Vulnerability Index (SVI) score of 0.9367. Social vulnerability refers to the 15 socioeconomic and demographic factors that CDC uses to determine the relative impact of disasters such as hurricanes. The higher the SVI score, the more likely the residents in a community will be adversely affected in disaster events.

109. Based on claims filed with FEMA, FEMA determined that habitability repairs for disaster caused damage were required for 25% of all occupied units in the Arbor Court census

tract. Only eight of the 527 occupied units needing these repairs were insured.

110. Mr. Bob's Arbor Court minority neighborhood will not be treated as well by the Defendants' policies as will majority White Houston neighborhoods with comparable damage. In contrast to Mr. Bob's neighborhood, a majority white North Houston neighborhood with comparable damage from the hurricane, census tract 2413, FEMA determined that habitability repairs were required for 13% of all occupied units. In addition, 374 of these 504 units were insured. The households in this census tract are 18% Black, 23% Hispanic, and 50% White non-Hispanic. The poverty rate is 7%. The neighborhood is 14 % renter occupied, 86% owner occupied units. There are 271 vacant units. There were 114 homes loans in this census tract in 2018. The CDC Social Vulnerability Index is 0.1789 for this census tract which is much lower than Mr. Bob's Arbor Court neighborhood. The Defendants' allocation policies for CDBG-DR funds to homeowners will aid neighborhoods such as this one with a majority of homeowners while the predominantly renter neighborhoods such as Mr. Bob's 95% renter neighborhood will not receive any CDBG-DR relief.

#### **Angenitta Delores Oaks**

111. Plaintiff Angenitta Delores Oaks is a Houston, Texas resident who was renting a unit at the time of Hurricane Harvey. Ms. Oaks is a Black, forty-eight year old, disabled mother who survives on \$771.00 per month. Ms. Oaks suffers from numerous life-threatening ailments, including being diabetic, having high blood pressure, suffering 2 strokes, and having a heart attack. Additionally, Ms. Oaks suffers from a debilitating case of osteoporosis, which has led to fractures and broken bones in her ankle, wrist, and hand, and requires her to use a cane or walker to move around.

112. When Hurricane Harvey hit, Ms. Oaks lacked savings, access to credit and borrowing options to evacuate and seek safe, habitable temporary housing. Ms. Oaks, her adult son, and daughter were living in a federally subsidized unit at Villa Americana. Water entered their unit under their door and went throughout their townhouse. Because of her lack of financial resources, Ms. Oaks remained upstairs in her flooding unit.

113. Hurricane Harvey caused water damage to her unit's walls, flooring, refrigerator, stove, and cabinets. Ms. Oaks' car lost her vehicle as a result of storm damage. The family lost nearly all of their personal property, including food, furniture, clothing, shoes, and other basic items.

114. She applied to FEMA for assistance and only received \$800.00 for vehicle damages. Ms. Oaks had considerable personal property losses, but FEMA did not provide any financial assistance to her to replace personal property. Ms. Oaks did not receive assistance from any other government agency or non-profit organization. Ms. Oaks did not have any liquid savings to cover the financial emergency Harvey caused.

115. Ms. Oaks' ability to recover from the hurricane is also impacted by her age and health. The lingering effects of Harvey damage has impacted her physical and mental health and makes recovery even more difficult.

116. Ms. Oaks lacked resources to relocate to temporary housing and had to remain in her flood-damaged rental unit following Harvey. Her unit had the following repair needs: faulty wiring, flooded flooring and carpet, water quality and sewage, limited hot water, roach infestation, damaged refrigerator and oven. The landlord however, made no attempt to repair her unit or replace damaged appliances. For over a year, Ms. Oaks could not preserve food due to

damaged appliances. Ms. Oaks remained in her damaged, unrepaired unit until she found alternative permanent housing in January 2019.

117. As a disabled, fixed income, Black, Ms. Oaks is one of the most vulnerable residents impacted by the hurricane. Defendants approved a State Action Plan and policies that discounted her unmet needs and failed to provide direct financial assistance to renters like Ms. Oaks.

118. According to the CDC, Ms. Oaks resided in a census tract that was extremely vulnerable in a natural disaster. Ms. Oaks's census tract received a Social Vulnerability Index score of 0.9134, meaning she lives in a low-income area with low-quality housing, poor transportation, and a lack of other resources.

119. Ms. Oaks's circumstances are indicative of the households within her Villa Americana neighborhood. Ms. Oaks resided in census tract 3317 with very few non-Hispanic White households-97% of the households are minority. This neighborhood is racially segregated and has been for many years. The households in this tract are 84% Black, 13% Hispanic, and 4% White non-Hispanic. In this tract, 20% of the residents are below poverty. The neighborhood is 32% renter occupied and 68% owner occupied units. The residences are older. Most of the homes were built before 1999 with 1966 being the median year of structures built in this tract. Vacant homes are 12% of the units in the tract. There were only 13 home purchase loans made in this census tract in 2018.

120. Based on the few claims filed with FEMA, FEMA determined that habitability repairs for disaster caused damage were required for 5% of all occupied units in the census tract. Only 13 of the 65 occupied units needing these repairs were insured.

121. Ms. Oaks' Villa Americana minority neighborhood will not be treated as well by the

Defendants' policies as will majority White Houston neighborhoods with comparable damage. In contrast to Ms. Oaks' neighborhood, in a majority white West Houston neighborhood with comparable damage from Harvey, FEMA determined that habitability repairs were required for 11% of all occupied units. Most of those units were insured with 138 of 205 units insured. This neighborhood is in census tract 3240. The households are 1% Black, 37% Hispanic, and 54% White non-Hispanic. The poverty rate is 9%. The neighborhood is 28% renter occupied and 72% owner occupied units. The age of the homes is newer with 26% built since 2000 with the median year built of 1987. Only 7% of the homes are vacant in this tract. There were 29 home purchase loans made in this census tract in 2019. The CDC Social Vulnerability Index is much lower for this census tract and is 0.4107.

122. The State Defendants 2019 State Action Plan does not provide direct financial assistance to renters like Ms. Oaks. Instead, the State Action Plan provides assistance to developers to construct rental units that are not required to accept renters who have been displaced by Harvey. The rental units to be provided under the State Action Plan do not need to be for rental units damaged by Harvey or even have to be in the same area as the rental units damaged by Harvey.

**LaGladys Oliver-Davis**

123. Plaintiff, LaGladys Oliver-Davis is a Black, 42 year old, disabled mother of a 14-year-old son, and two daughters, ages 11 and 3. Ms. Oliver-Davis is in poor health due to a heart condition that has required two major open heart surgeries, two aortic valve replacements, and the installing of a pacemaker. Ms. Oliver-Davis's fourteen year old son suffers from cerebral palsy which makes it difficult for him to walk, ride a bike or even stand at times; he also has

frequent seizures. Both daughters have asthma.

124. The family's monthly household income is \$1,650.00, which is received through disability payments. Ms. Oliver-Davis receives little to no assistance from any other sources. Her disability limits her income-potential and access to financial resources for disaster recovery. Ms. Davis did not have any liquid savings to cover the financial emergency Harvey caused.

125. When Hurricane Harvey hit, she was a tenant in one of Houston's scarce federally subsidized housing public housing units, at the Historic Oaks of Allen Parkway Village located in census tract 4101. Ms. Oliver-Davis was three months behind on her rent, and her landlord attempted to evict her. The JP Court judge ordered her to pay the amount owed by September 5, 2017. Although she and her family had to evacuate due to Harvey, she still went to the management office to make payment during the storm, found the office closed, so she placed her August rent payment in the drop slot. The landlord claimed not to have received payment, and when Ms. Oliver-Davis attempted to get her receipt from her apartment, the landlord refused to allow her to re-enter the unit. Ms. Oliver-Davis was unable to retrieve any of their medicine, financial documents, furniture or clothing. The storm also prevented her from getting rental assistance, and the family wound up moving in and out of various hotels.

126. Ms. Oliver-Davis' unit at Allen Parkway Village was severely damaged by flooding and the ensuing severe mold. Her washer and dryer rusted completely, and some of her furniture, clothing and shoes were damaged by the mold.

127. Ms. Oliver-Davis was going back and forth from her family's hotel room trying to retrieve her medicine and other property from Historic Oaks when she saw her landlord throwing her family's property out on the sidewalk. She began to pass out due to her heart condition. Ms.

Oliver-Davis was taken to the hospital. The landlord removed all of her property from the unit.

128. Ms. Oliver-Davis applied for assistance from FEMA and SBA. FEMA provided \$400.00 and the SBA denied her due to time constraints. Ms. Oaks did not receive assistance from any other government agency or non-profit organization. Later she learned she was approved for temporary housing from FEMA. However, she did not receive notice of FEMA's decision and, to the best of her knowledge, was never assigned a caseworker.

129. Allen Parkway Village is located in "Midtown which was the original fourth ward," as Ms. Oliver-Davis describes. Before it was the Fourth Ward it was a Freedman's Town, a settlement of freed slaves. Today, the census tract where Allen Parkway Village is located is becoming gentrified with low income Black residents being displaced.

130. The number of public housing units at Allen Parkway Village has drastically reduced overtime. In 1944, Historic Oaks of Allen Parkway Village had 1,000 units, and they were only available to white residents. Shortly after the complex was integrated in 1964, Ms. Oliver-Davis's parents moved in. From the late 1970s onward, conditions at Allen Parkway Village deteriorated as the city, the housing authority, and HUD neglected the Allen Parkway Village units and their residents. Today there are only 500 units, 300 of the historic units were renovated and 200 were newly built. Because of the higher property values and gentrification of the Allen Parkway neighborhood, poor and minority residents, like Ms. Oliver-Davis, are finding it difficult to afford units in this inner-city neighborhood.

131. Ms. Oliver-Davis lived in census tract 4101 in Allen Parkway at the time of the disaster. Because of the gentrification of this neighborhood with wealthier, whiter newcomers moving in, the CDC Social Vulnerability Index is low, 0.2486. In this case, the index is not an

accurate measure of Ms. Oliver-Davis's vulnerability. She has been displaced from this neighborhood to a minority neighborhood.

132. Ms. Oliver-Davis was unable to secure another federally subsidized or affordable housing unit in census tract 4101 or a census tract with similar characteristics. She was only able to obtain temporary housing in census tract 5217 at a dangerous hotel.

133. She has been displaced since the hurricane. This summer, she applied for a unit at Northline Apartments, a property based subsidized unit, but she has not received a response. From September 2018 to August 2019, Ms. Oliver-Davis resided in an extended stay hotel located in census tract 5217. Both she and her son need electric wheelchairs, but there is nowhere to store them in the \$45.00 per night hotel room the family of four currently shares. The room has a kitchenette and a shower, but no bathtub. The family also needs furniture, appliances, kitchenware, clothing, shoes, and other personal effects.

134. As a result of the hurricane, Ms. Oliver-Davis was displaced from a census tract with low social vulnerability to temporary housing in a census tract with high social vulnerability 0.7985. While the poverty rate in census tract 4101 is 24% the poverty rate in census tract 5217 is much greater at 37%.

135. According to the most recent ACS Census data for census tract 4101 for Allen Parkway, 23% of households are Black, 43% are White, non-Hispanic, and 18% are Hispanic.

136. Ms. Oliver-Davis was displaced to a predominately minority, high poverty, low resource area that sustained much higher Disaster damage. According to the most recent ACS Census data for census tract 5217, 29% of the households are Black, 53% are Hispanic, and only 17% of households are White, non-Hispanic.

137. A guest was killed at the hotel in tract 5217 and Ms. Oliver-Davis no longer felt safe to reside at this location. Ms. Oliver-Davis and her family are now homeless-living from place to place where they can find housing.

138. Ms. Oliver-Davis was displaced from the Allen Parkway neighborhood, that is 43% White and 23% Black and 18% Hispanic. In this tract, 24% of the residents are below poverty. The neighborhood is 71% renter occupied and 29% owner occupied units. Census data shows that 75% of the homes have been built since 2000.

139. Based on the few claims filed with FEMA, the agency determined that habitability repairs for disaster caused damage were required for only 1% of all occupied units in the Allen Parkway census tract. Only 2 of the 20 occupied units needing these repairs were insured.

140. Ms. Oliver-Davis' Allen Parkway minority neighborhood will not be treated as well by the Defendants' policies as will majority White Houston neighborhoods with comparable hurricane damage. A nearby majority White Houston neighborhood with comparable damage from Harvey provides a comparison. In this neighborhood, FEMA determined that habitability repairs were required for only 4 units. All 4 of those units were insured. This neighborhood is in census tract 4102. The households in this tract are 5% Black, 6% Hispanic, and 79% White non-Hispanic. The poverty rate is 6%. The neighborhood is 71% renter occupied and 29% owner occupied units. The CDC Social Vulnerability Index is much lower for this census tract and is 0.0251.

141. The State Action Plan does not provide direct or indirect financial assistance to Ms. Oliver-Davis and similarly situated renter households. The State Defendants failed to allocate funds to renters like Ms. Oliver-Davis who needed relocation assistance for temporary and

permanent housing. Instead, the State Action Plan provides assistance to developers to construct rental units that are not even required to accept renters who have been displaced by Harvey.

142. The result is the perpetuation of segregation in areas similar to census tract 4101- displacing minorities from predominately white non-Hispanic census tracts with low social vulnerability to predominantly minority census tracts with high social vulnerability and less resources.

### **Galveston**

#### **Denise Swan**

143. Plaintiff, Denise Swan, is a Black Galveston, Texas resident. Ms. Swan is disabled and suffered a heart attack and depression before the Disaster. In the Disaster's aftermath, Ms. Swan's depression worsened.

144. At the time of the Disaster, Ms. Swan lived with her teenage daughter in federally subsidized project-based housing at Scattered Sites operated by Galveston Housing Authority. They evacuated for one week to a relative's home. Upon returning home, Ms. Swan found her unit damaged from leaks in the kitchen and her floors were water-logged. Ms. Swan's personal property was still intact, but her unit was uninhabitable. Ms. Swan received temporary housing assistance from FEMA in the form of hotel vouchers.

145. The Galveston Housing Authority determined that despite the waterlogged floor her apartment was still livable; however, her unit was, in fact, uninhabitable due to moisture and a waterlogged floor. In an effort to compel repairs to her unit, Ms. Swan withheld her rent, but was later evicted.

146. Ms. Swan is still displaced as a result of the effects of Hurricane Harvey. She is

currently staying with a friend because she cannot afford her own place. For now, she and her daughter are surviving on a \$400.00 per month adoption subsidy, a \$250.00 per month Temporary Assistance for Needy Families (TANF), and \$350.00 per month in food stamps. Ms. Swan has applied for disability, and her application is still pending.

147. Ms. Swan's neighborhood prior to Hurricane Harvey is in census tract 7251 and is predominantly minority. The tract has 40% Black households, 33% Hispanic households, and 26% White non-Hispanic. In this tract, 29% of the residents are below poverty. The neighborhood is 53 % renter occupied and 47% owner occupied units. Denise Swan resided in an extremely vulnerable census tract at the time of the Disaster, with a Social Vulnerability score of 0.8184.

148. Based on the few claims filed with FEMA, the FEMA determined that habitability repairs for disaster caused damage were required for 2% of all occupied units in census tract 7251.

149. Ms. Swan's minority neighborhood will not be treated as well by the Defendants' policies as will majority White Galveston neighborhoods with comparable damage. In a majority white Galveston neighborhood with comparable damage from Harvey, FEMA determined that habitability repairs were required for 2% of all occupied units. This neighborhood is in census tract 7249. The households in this tract are 9% Black, 26% Hispanic, and 64% White non-Hispanic. The poverty rate is 15%. The neighborhood is 48% renter occupied and 52% owner occupied units. The CDC Social Vulnerability Index is lower for this census tract and is 0.5685.

150. Because Ms. Swan is a renter, she is ineligible for any of the direct financial assistance that will be provided to homeowners under Defendants' State Action Plan. She

continues to be displaced from the hurricane while a predominantly White group, homeowners are benefitting from the CDBG-DR funds.

**Beaumont**

**Theodore David**

151. Plaintiff, Theodore David, is a Black, 78 year-old homeowner and widower. He is a resident of Beaumont, Texas, and has owned his home since 1992. After his house sustained damage from Hurricane Harvey, Mr. David applied for assistance from FEMA and Red Cross. He was denied. Mr. David plans to apply for assistance from SETPRC recovery program and GLO's Homeowner Assistance Program.

152. Mr. David suffered a heart attack in 1992, which resulted in neuropathy in both legs. Before he retired, Mr. David suffered a serious fall that damaged his sacroiliac joint. To manage the pain, he must pay for monthly injections. He also suffers from arthritis. Mr. David's income is based on monthly Social Security payments.

153. Mr. David and his wife had been living in their two-story home for thirteen years when Hurricane Rita damaged the property in 2005, causing the house to shift. In 2008, Hurricane Ike exacerbated the foundation issues. Finally, Hurricane Harvey damaged the house foundation further and rendered the home unlivable. The house was more than 50 years old when Harvey hit. The insurance would not pay for any damage caused by Harvey because the insurance company claimed the damage was due to previous hurricane-related damage. As a result, the family was displaced.

154. Mr. David's wife had two strokes shortly after Hurricane Harvey. Mrs. David was removed from life support and died in December 2017. Mr. David states that her strokes and

eventual death were the result of the stress from the displacement caused by the Hurricane, as well as, the lack of disaster relief assistance.

155. Eventually, Mr. David found someone to level the house foundation for a price he could afford. He moved back into his home and his disabled daughter came to live with him. The home still needs repairs including window replacements and fencing to protect the home from animals and weather elements. Mr. David cannot afford any additional repairs.

156. Mr. David lives in census tract 20 in Central Beaumont. It is racially and ethnically concentrated and has been for many years. The households in this census tract are 46% Black, 35% Hispanic, and 14% White non-Hispanic. In this tract, 21% of the residents are below poverty. The neighborhood is 44% renter occupied and 56% owner occupied units. The residences are older structures with the median year of structures built in this tract is 1959. Vacant homes are 18% of the units in the tract. There were only 2 home loans made in this tract in 2018. The CDC Social Vulnerability Index score for this neighborhood is extremely vulnerable, 0.8977.

157. Based on the claims filed with FEMA, the FEMA determined that habitability repairs for disaster caused damage were required for 6% of all occupied units in census tract 20. Only 7 of the 42 occupied units needing these repairs were insured.

158. Mr. David's minority concentrated neighborhood will not be treated as well by the Defendants' policies as will majority White Beaumont neighborhoods with comparable damage. In a majority White Beaumont neighborhood with comparable damage from Harvey, FEMA determined that habitability repairs were required for 4% of all occupied units. Of those damaged units, 29 of 59 units were insured. This neighborhood is in census tract 3.06 and is 10% Black,

6% Hispanic, and 80% White non-Hispanic. The poverty rate is 5%. The neighborhood is 35% renter occupied and 65% owner occupied units. The age of the homes is newer with the median year built of 1968. Only 9% of the homes are vacant in this tract. The CDC Social Vulnerability Index is much lower for this census tract and is 0.1403.

159. Mr. David's census tract has 44% renter households. The State Action Plan's lack of rental assistance for the renters, including those in his neighborhood, will impact the viability of his neighborhood.

### **Port Arthur**

#### **Port Arthur Community Action Network**

160. Plaintiff, Port Arthur Community Action Network (PA-CAN) is a non-profit community group that mobilized immediately after Hurricane Harvey to address several of the environmental releases and other problems associated with Hurricane Harvey in Port Arthur, Texas. Port Arthur is home to a large petro-chemical industrial complex, including refineries. These industries affect minority neighborhoods and the hurricane exacerbated many environmental problems in these neighborhoods.

161. The City of Port Arthur, where the organization is based, has a history of racial segregation and discrimination towards minorities, who were initially concentrated on the West side of the City through public housing in undesirable heavy industrial areas. Today, Blacks still comprise the overwhelming majority of low income individuals located on the West Side of Port Arthur.

162. PA-CAN is focused on working in the City of Port Arthur and is fully aware of the devastating impacts that Hurricane Harvey had on Port Arthur and Jefferson County. The

organization was responsible for hosting disaster relief legal clinics for the citizens and advocating for Port Arthur with local, state and federal agencies.

163. PA-CAN members are Black Port Arthur homeowner and renter residents whose homes and neighborhoods were devastated by Hurricane Harvey. PA-CAN members endured negative health impacts, environmental injustices, real and personal property loss as a result of Hurricane Harvey.

164. Since its creation the organization has been actively involved in addressing problems in their community such as the lack of housing, the condition of current housing and the lack of drainage infrastructure within the community. PA-CAN is committed to improving the quality of life of residents of Port Arthur, Texas. Members of PA-CAN play a key role in organizing residents to advocate for systematic issues distressing the community as a whole, such as discrimination in housing and substandard housing.

165. GLO and HUD's disproportionate allocation of federal CDBG-DR funding harms the unmet housing needs of PA-CAN's members. Defendants' policies have frustrated the mission of PA-CAN to provide relief to the Black homeowner and Black renter residents of Port Arthur.

166. The Defendants' actions have harmed PA-CAN by making it more difficult to assist its members who have not recovered from the effects of Harvey. PA-CAN's purpose and mission have been frustrated due to a lack of available recovery resources and housing for tenants. PA-CAN has shifted its efforts outside of its normal activities to now focus on assisting tenants who do not have access to recovery resources available to homeowners (i.e. survivor management, utility assistance, rental assistance, security deposit assistance, reimbursement for disaster

damaged appliances, or other financial assistance to rent a home).

167. In an effort to assist tenant members, PA-CAN has held clinics on disaster relief to connect individuals to other resources, challenged the defendants' discriminatory practices at public hearings and still continues to assist families with supplies and immediate needs. Had Defendants complied with the law there would be more resources, programs and housing available tenants.

168. Many PA-CAN members experienced overwhelming unmet housing needs before Hurricane Harvey due to previous disasters, poverty, unemployment, disinvestment, and racial disparities. Further, Southeast Texas, including Port Arthur, not only was hit extremely hard by the Disaster. The impacts on Black and Hispanic households in this area were exacerbated because a high percentage of these households lack the ability to recover on their own from natural disasters like Hurricane Harvey.

169. The majority of households in Port Arthur are Black and Hispanic. According to the ACS Census, 44% of the households are Black, 22% are Hispanic, and 27% are White, non-Hispanic. More than 31% of the city's population lives below the poverty level.

170. PA-CAN's members are harmed by Defendants' actions at issue in this case. The approved allocation policy perpetuates racial segregation and unequal neighborhood conditions in Port Arthur. The State Defendant's process for distributing CDBG-DR funds undercounts the needs of PA-CAN members. The State Defendants calculated the unmet housing needs based on the number of houses that had over \$8,000 in real property FEMA-verified losses and only those rental units whose renters had over \$2,000 in personal property FEMA-verified losses. This policy disadvantaged PA-CAN homeowners because Port Arthur is plagued with low property values and housing made from inexpensive materials, especially in predominately minority

neighborhoods. Thus, accruing \$8,000 in real property damage requires far more damage to homes in minority neighborhoods in Port Arthur than in predominantly White neighborhoods.

171. The unmet needs of PA-CAN renters went ignored all together because the relief funding for rental units goes directly to landlords and developers of new rental housing and not to the renters in Port Arthur. There is no program available under the State Action Plan that offers direct disaster financial assistance to renters.

172. The State Defendants' Affordable Rental Housing Program does not provide relief to the many Black renters harmed by the Disaster in Harvey. These renters and PA-CAN members will not be provided with any direct financial assistance. Any of the units built under this program will not be affordable for very low income renters.

173. The PA-CAN members who are homeowners in minority neighborhoods will also be harmed by Defendants' actions. Many of the homes in the minority neighborhoods are renter occupied with no direct CDBG-DR assistance being provided to those renters. These renters and homes affect the viability of the entire neighborhood.

**Cherry Lee Johnson**

174. Plaintiff, Cherry Lee Johnson, is a Black homeowner and resident of Port Arthur, Texas. Ms. Johnson barely survived Hurricane Harvey, having been rescued and evacuated by boat. She was evacuated to Dallas, Texas for nearly two months.

175. The Disaster damaged Ms. Johnson's home, most significantly by putting a hole in the roof, which Ms. Johnson is unable to repair on her own and cannot afford to hire a roofer repair the hole on her behalf. Her handicap railing, A/C unit and kitchen cabinetry were completed damaged and still need to be replaced.

176. Ms. Johnson lost all of her personal property to the Disaster. Ms. Johnson was not able to replace her personal property, including clothing. In addition, her vehicle was totaled.

177. Ms. Johnson applied for assistance from FEMA, Red Cross and other non-profit organizations. She received only \$12,000 in FEMA assistance to repair her home, which is less than half of her repair costs, and temporary housing cost for her hotel stay.

178. Ms. Johnson lived in a shelter when she returned from Dallas and then in hotels until her financial resources diminished. Ms. Johnson was not able to return home to Port Arthur, Texas until February 2018.

179. Ms. Johnson lives in census tract 56 in Port Arthur. According to the CDC, Ms. Johnson resides in a census tract that is vulnerable to natural disasters. Her census tract has a Social Vulnerability score of 0.5948.

180. Ms. Johnson's census tract is racially and ethnically concentrated and has been for many years. This census tract is 31% Black, 47% Hispanic, and 15% White non-Hispanic. In this tract, 31% of the residents are below poverty. The neighborhood is 25% renter occupied and 75% owner occupied units. Vacant homes are 25% of the units in the tract. There was only 1 home loan made in this tract in 2018.

181. Based on the claims filed with FEMA, the FEMA determined that habitability repairs for disaster caused damage were required for 84% of all occupied units in census tract 56. Only 288 of the 775 occupied units needing these repairs had homeowners' insurance.

182. Ms. Johnson's minority concentrated neighborhood will not be treated as well by the Defendants' policies as will nearby majority White neighborhoods with comparable damage. In census tract 106, a majority White neighborhood with comparable damage from Harvey, FEMA

determined that habitability repairs were required for 5% of all occupied units. Of those damaged units, 38 of 49 units were insured. The households in this census tract are 1% Black, 19% Hispanic, and 79% White non-Hispanic. The poverty rate is 10%. The neighborhood is 28% renter occupied and 72% owner occupied units. Only 9% of the homes are vacant in this tract. There were 40 home purchase loans made in this tract in 2018. The CDC Social Vulnerability Index is lower for this census tract and is 0.4430.

183. Ms. Johnson's census tract has 25% renter households. The State Action Plan's lack of rental assistance for the renters, including those in her neighborhood, will impact the viability of her neighborhood.

#### **XI. Plaintiffs' claims for relief**

184. The GLO Commissioner's implementation of the allocation policies based on its calculation of the unmet housing needs for owners and renters violates both the discriminatory impact standard and the discriminatory intent standard of 42 U.S.C. § 3604(a) and 42 U.S.C. § 3605.

185. The GLO Commissioner's implementation of the allocation policies based on its calculation of the unmet housing needs for owners and renters and the GLO Commissioner's implementation of the policy restricting eligibility for direct financial assistance to obtain housing to home owners and excluding tenants violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution for which 42 U.S.C. § 1983 provides a cause of action. The 2019 State Action Plan is official state policy.

186. The GLO Commissioner's implementation of the policy restricting eligibility for direct financial assistance to obtain housing to home owners and excluding tenants violates both

the discriminatory impact standard and the discriminatory intent standard of 42 U.S.C. § 3604(a) and 42 U.S.C. § 3605.

187. The GLO Commissioner's implementation of the policy restricting eligibility for direct financial assistance to obtain housing to home owners and excluding tenants violates 42 U.S.C. § 1982.

188. The GLO allocation policies based on its calculation of the unmet housing needs for owners and renters and its policy restricting eligibility for direct financial assistance to obtain housing to home owners and excluding tenants for the distribution of direct financial assistance to obtain housing violate the discriminatory intent standard under 42 U.S.C. § 2000d. This claim is based on the intent to disadvantage the predominantly Black and Hispanic group of renters and the intent to perpetuate neighborhood racial segregation of Black, Hispanic, and White non-Hispanic households by perpetuating unequal neighborhood conditions in the predominantly Black and Hispanic neighborhoods.

189. HUD's approval of the GLO use of the allocation policies based on GLO's calculation of the unmet housing needs of owners and renters and the HUD approval of the GLO policy restricting eligibility for direct benefit programs to home owners violates the discriminatory intent standard of the Fifth Amendment to the United States Constitution.

190. HUD's approval of the GLO use of the allocation policies based on GLO's calculation of the unmet housing needs of owners and renters and the HUD approval of the GLO policy restricting eligibility for direct benefit programs to home owners violates HUD's duty to affirmatively further fair housing pursuant to 42 U.S.C. § 3608(e)(5). HUD's approval of the State Action Plan will perpetuate and increase the patterns of racial segregation, unequal

treatment based on race, and the historic lack of equal access to opportunity without regard to race in the disaster relief area. As set out in this complaint, the discriminatory allocation policies approved by HUD will cause the discriminatory effects of disadvantaging a predominantly Black and Hispanic group, renters, compared to the treatment of a predominantly White, non-Hispanic group, home owners. The challenged policies will disadvantage the predominantly Hispanic and Black group, residents of the Hispanic and Black neighborhoods in the disaster area compared to the treatment of the residents of the White non-Hispanic neighborhoods in the disaster area.

**Equal Protection and 42 U.S.C. § 1983**

191. The State Defendants' administration of the CDBG-DR programs is pursuant to the official State policy set out in the State Plan and supporting documents and is action taken under color of state law. The State Defendants' administration of the CDBG-DR programs subjects Plaintiffs to the deprivation of the equal protection of the laws based on their race, color, and ethnicity in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. 42 U.S.C. § 1983 provides for redress of the injuries inflicted by the violation of equal protection.

**Title VI of the 1964 Civil Rights Act**

110. The HUD CDBG-DR funding for Hurricane Harvey recovery is federal financial assistance under Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d, et seq. Plaintiffs are being denied the benefits of and are being subjected to racial and ethnic discrimination under the State Action Plan.

**XII. Prayer for relief**

192. Plaintiffs request the following relief:

A. The issuance of a preliminary injunction restricting GLO from expending more than one half of the allocated funds pursuant to the existing HUD approved allocation and implementation plan until a decision on the merits. This will ensure that if Plaintiffs prevail and HUD and the State Defendants must amend the allocation, funds are available to be used under that allocation.

B. The issuance of a permanent injunction requiring the submission of State Action Plan that does not use of the racially discriminatory policies challenged in this lawsuit.

C. The issuance of a permanent injunction setting aside HUD's current approval of the GLO State Action Plan and requiring HUD to timely consider the revised GLO allocation and implementation that is submitted pursuant to a remedial order in this case.

D. Any other appropriate relief.

E. Costs, attorney fees, and litigation expenses.

Respectfully Submitted,

/s/ Ashea E. Jones

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