

INTRODUCTION

1. On August 29, 2005, Hurricane Katrina hit New Orleans causing the breach of several levees and the evacuation of hundreds of thousands of residents. Of the 354,045 residents who lived in damaged areas of New Orleans, 75 percent were African-American and more than 29 percent were poor.¹ Almost ten months later, a majority of these residents remain displaced. Most residents cannot return because of a shortage of housing due to a loss of approximately half of all rental housing and an increase in demand; since the storm, rental rates have increased 25-30% in New Orleans. Despite this massive shortage of housing, particularly affordable housing, the Housing Authority of New Orleans (HANO) has taken virtually no steps to repair housing units that could bring back many of the 5,146 displaced, predominantly African-American families that resided in public housing. Instead of moving quickly to re-open habitable units and make repairs where necessary, for the most part, HANO boarded up units. Most recently, the U.S. Department of Housing and Urban Development (HUD) made clear that these families would not be able to return anytime soon when it announced its plan to demolish 5,000 public housing units.

2. By failing to reopen housing units that were undamaged by Hurricane Katrina, failing to repair other units, and declaring that most of the existing public housing stock in New Orleans would be demolished, HANO and HUD (Defendants) are violating their obligation to provide non-discriminatory access to safe, affordable housing for low-income families and breaching their contractual commitments and statutory obligations to public housing residents of New Orleans. Their actions and inactions will instead

¹ JOHN LOGAN, THE IMPACT OF RACE AND CLASS IN STORM DAMAGED NEIGHBORHOODS 7,15 (2006), available at www.s4.brown.edu/Katrina/report.pdf.

effectively exclude thousands of low-income African-American families from the city. Further, Defendant HUD has failed to meet its obligations to preserve, to the extent possible, all public housing in areas affected by Hurricanes Katrina or Rita.²

3. This action is brought on behalf of the class of individual African-Americans who, before Hurricane Katrina, resided in public housing (“Plaintiffs”) managed by Defendants. As a result of the devastation wrought by Hurricane Katrina, Plaintiffs were displaced from their public housing units and currently reside elsewhere or have returned or attempted to return to their public housing unit with or without Defendants’ authorization. Plaintiffs want to return to their homes and to New Orleans.

4. For many years, Defendants have squeezed low-income African-American families out of public housing in New Orleans by reducing the number of public housing units from over 13,000 to approximately 7,000. Their post-Hurricane Katrina actions have exacerbated that improper conduct.

5. After Hurricane Katrina, Defendant HANO conducted surveys of public housing residents. It reported that of those surveyed, 60 percent of residents intend to return. Pre-Katrina, more than 5,100 families resided in New Orleans’ public housing developments, yet Defendants intend to reopen only approximately 2,000 apartments. To date, only about 880 families have been permitted to return. Most will be unable to do so. Plaintiffs, who have been unable to return to their units, linger in uncertainty about the fate of their homes and their lives. As a result of defendants’ actions, many low-income families, who are disproportionately African American, have been prohibited from returning to their homes or have returned and are living in their units in substandard conditions.

² Act of Dec. 30, 2005, 109 P.L. 148; 119 Stat. 2680.

6. Public statements of Defendant Alphonso Jackson, the Secretary of the U.S. Department of Housing and Urban Development, and other elected officials suggest defendants' inaction and needless delay in repairing and reopening New Orleans public housing development are based on racial animus and a clear intention to prohibit the return of many low-income African-American families.

7. On Sept. 29, 2005, Secretary Jackson, who is charged with the development of a public housing plan for New Orleans and for not only enforcement of fair housing opportunities but also furthering fair housing in the use of federal funds, stated that post-Katrina New Orleans "is not going to be as black as it was for a long time, if ever again."³ On April 24, 2006, Defendant Jackson further stated that "[o]nly the best [public housing] residents should return. Those who paid rent on time, those who held a job and those who worked."⁴

8. Other public officials have followed Secretary Jackson's lead. On February 20, 2006, New Orleans City Council President Oliver Thomas stated "[w]e don't need soap opera watchers all day," and that if displaced residents want to come back and want to live in public housing, they better want to work.⁵ Further, after the hurricane Louisiana Congressman Richard Baker (R-LA) said, "[w]e finally cleaned up public housing in New Orleans. We couldn't do it, but God did."⁶

³ Becky Bowman et al., *Hurricane Rita: The Aftermath; Population Shift*, THE HOUSTON CHRONICLE, Sept. 29, 2005. at B1.

⁴ Bill Walsh, *Official blunt on Public Housing*, THE TIMES PICAYUNE, Apr. 25, 2006, available at <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-5/1145947501313590.xml>.

⁵ Martin Savidge, *What's next for Public Housing in New Orleans?*, available at <http://www.msnbc.msn.com/id/11485681/>.

⁶ Charles Babington, *Some GOP Legislators Hit Jarring Notes in Addressing Katrina*, THE WASHINGTON POST, Sept. 10, 2005, at A04, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/09/AR2005090901930.html>.

9. After Hurricane Katrina, Defendants suggested that many public housing units were salvageable by reporting their intent to clean and repair units at the following public housing developments: Iberville, C.J. Peete, B.W. Cooper, and Lafitte. Public housing residents continued to hope for the best as Defendants delayed the promised clean up and repair efforts. Plaintiffs' fears, however, became reality when on June 14, 2006, Defendant HUD announced that it would demolish more than 5,000 public housing apartments—the St. Bernard, C. J. Peete, B. W. Cooper and Lafitte housing developments—and replace them with mixed-income developments. The demolition, scheduled to begin over the next several months, would be the largest demolition in the City's history.⁷ It would effectively deprive thousands of public housing families of the ability to return to New Orleans, without hearing, input, or any due process protection.

10. Defendants' discriminatory policies and practices have been carried out under the direction, and with the full consent, knowledge, encouragement, and ratification of the Defendants' highest officials. Defendants' discriminatory policies and practices have been maintained intentionally, maliciously, and with willful, callous, wanton, and reckless disregard for plaintiffs' federally protected rights.

11. Defendants' actions, inactions and plan to demolish 5,000 public housing units, have and will have an adverse impact on African-American residents of New Orleans who want to return but due to Defendants' actions and inactions will be excluded from the City, in violation of the Fair Housing Act, 42 U.S.C. § 3604 *et seq.* Furthermore, Defendants' statements, their purposeful inaction, and their stated intent to demolish public housing make clear Defendants' intent to purposefully reduce the

⁷ Susan Saulny, *5,000 Public Housing Units in New Orleans Are To Be Razed*, N.Y. TIMES, June 15, 2006, at A16.

number of low-income, African-American residents of New Orleans, in violation of the Fair Housing Act, 42 U.S.C. § 3604 *et seq.* Plaintiffs bring this action against Defendants for temporary, preliminary, and permanent injunctive relief, a declaratory judgment, and damages for discrimination on the basis of race in the rental of housing. Plaintiffs request that the Court enjoin Defendants from demolishing any public housing properties in New Orleans pending resolution of Plaintiffs' claims on the merits.

12. Defendants' actions or inactions have further denied Plaintiffs' their rights under the Fifth and Fourteenth Amendments to the U.S. Constitution and constitute an actual or de facto demolition for which Plaintiffs are entitled to procedural relief pursuant to the U.S. Housing Act of 1937, 42 U.S.C. § 1437p(a)(3). In addition, Defendants have constructively evicted Plaintiffs and breached plaintiffs' leases in violation of state statutory and common law. Finally, Defendants' actions constitute violations of international law.

13. As a direct and proximate result of Defendants' discriminatory policies and practices, Plaintiffs have suffered, and in the future will continue to suffer, economic loss, humiliation, embarrassment, and emotional distress. Plaintiffs and the class members who they seek to represent bring claims against Defendants to require that they allow Plaintiffs to return to apartments that sustained little or no damage, repair public housing developments as soon as practicable, and permit residents to return to their public housing unit and rebuild their lives.

JURISDICTION AND VENUE

14. This Court has jurisdiction of the claims asserted in this complaint pursuant to 28 U.S.C. §§ 1331, 1343 and 1367. Plaintiffs' action for injunctive relief and damages is authorized under 28 U.S.C. § 2201 and Federal Rules of Civil Procedure 8, 57, and 65.

15. Venue is proper in this district pursuant to 28 U.S.C. § 1391, in that a substantial part of the events giving rise to this action occurred in this district, a substantial part of property that is the subject of the action is situated in this district, and most of the Defendants may be found in this district.

PARTIES

A. PLAINTIFFS

16. Plaintiffs are African-American citizens of the United States who as of August 29, 2005 resided in public housing developments in New Orleans, Louisiana, pursuant to written leases, and were involuntarily displaced as a result of Hurricane Katrina. Plaintiffs wish to return to their public housing residences, which are permanent, affordable housing units within the community of their choice. They have been unable, however, to do so because Defendants HANO and HUD have unlawfully prevented their return by approving the demolition of their apartments without consultation with the Plaintiffs and/or delaying or failing to make needed repairs or rebuild damaged properties. The named Plaintiffs bring this action on their own behalf and as representatives for a class of all similarly situated African-American public housing residents.

17. Plaintiff **YOLANDA ANDERSON** is an African-American citizen of the United States. Prior to Hurricane Katrina, she had leased an apartment at HANO's C.J. Peete public housing development.

18. Ms. Anderson lived in the C.J. Peete development for approximately three (3) years but was displaced after the storm and lives temporarily in Atlanta, Georgia. She visited her apartment at the C.J. Peete public housing development and found some flood damage and mildew. Additionally, her home was vandalized and some of her belongings stolen. Ms. Anderson wants to move back into her apartment because she was born and raised in New Orleans, and her apartment is affordable and accessible to public transportation. Defendants prevented her from permanently returning, however, by failing to repair and clean her home, and supply electricity, running water, and a working heater, and by authorizing the demolition of the housing development.

19. Plaintiff **GILDA BURBANK** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's St. Bernard public housing development.

20. Ms. Burbank lived in the St. Bernard housing development for approximately thirty (30) years, and she is currently a resident council member. She was displaced after the storm and lives temporarily in Houston, Texas. Ms. Burbank visited her apartment at the St. Bernard public housing development and found flood damage, mold, and mildew. She wants to move back into her apartment because it is affordable. Defendants prevented her from moving in permanently, however, by failing to repair the damage, and to supply electricity, running water, and a working heater, and by authorizing the demolition of the housing development.

21. Plaintiff **ALLEN HARRIS** is an African-American citizen of the United States. Prior to Hurricane Katrina, he leased an apartment at HANO's C.J. Peete public housing development.

22. Mr. Harris lived in the C.J. Peete development for approximately fifty (50) years. He was displaced after the storm and lived in numerous locations. Currently, he lives with family in New Orleans. He visited his apartment at the C.J. Peete public housing development and found minimal damage. Mr. Harris wants to move back into his apartment because it is located in a close-knit community and is affordable. Defendants prevented him from returning permanently by failing to make repairs, supply electricity, running water, and a working heater in his apartment and by authorizing the demolition of the development.

23. Plaintiff **DONNA JOHNIGAN** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's B.W. Cooper public housing development. Ms. Johnigan lived there for approximately thirty (30) years and currently serves as the vice president of programs of the resident council.

24. Ms. Johnigan lived in the B.W. Cooper for approximately thirty (30) years, but she was displaced after Hurricane Katrina and lives temporarily in Houston, Texas. She visited her apartment at the B.W. Cooper public housing development and found flood damage and mold. Ms. Johnigan wants to move back into her apartment because it is affordable. Defendants prevented her from moving in permanently, however, by failing to repair the damages, and by authorizing the demolition of the housing development.

25. Plaintiff **ODESSIA LEWIS** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's Lafitte public housing development.

26. Ms. Lewis lived in the Lafitte housing development for approximately eleven (11) years. She was displaced after the storm and lives temporarily in Atlantic Beach, Florida. She visited her apartment at the LaFitte public housing development on several occasions and found flood damage, mold and mildew. The flooding destroyed all of her belongings. She wants to move back into her apartment because it is affordable. Defendants prevented her from permanently moving in by failing to repair the damaged apartment, and to supply electricity, running water, and a working heater, and by authorizing the demolition of the housing development.

27. Plaintiff **EMELDA MAY** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's C.J. Peete public housing development.

28. Ms. May lived in the C.J. Peete development for approximately forty (40) years. She was displaced after the storm and is living temporarily in Breaux Bridge, Louisiana. She visited her apartment at the C.J. Peete and found minimal damage. After her initial visit, Ms. May's home was vandalized and some of her belongings stolen. Ms. May wants to move back into her apartment because it is affordable and accessible to public transportation. Defendants prevented her from returning permanently, however, by failing to supply electricity, running water, and a working heater in her apartment and by authorizing the demolition of the development.

29. Plaintiff **SYLVIA MOTEN** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's C.J. Peete public housing development.

30. Ms. Moten lived in the C.J. Peete development for approximately sixteen (16) years. She was displaced as a result of Hurricane Katrina and lives temporarily in Baton Rouge, Louisiana. She visited her apartment at C.J. Peete and found minimal flood damage and mold. Ms. Moten wants to move back into her apartment because it is affordable and accessible to public transportation. Defendants prevented her from returning permanently, however, by failing to make the necessary repairs to her apartment, and by not supplying electricity, running water, and a working heater, and by authorizing the demolition of the housing development.

31. Plaintiff **EMELDA PAUL** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's Lafitte public housing development.

32. Ms. Paul lived in the Lafitte housing development for approximately forty (40) years and currently serves as President of the Lafitte resident council. She was displaced after Hurricane Katrina and lives temporarily in a Maricopa, Arizona. She visited her apartment at the Lafitte development and found minor flood damage, mold and mildew. She wants to move back into her apartment because she was born and raised in New Orleans and her apartment is affordable. Defendants prevented Ms. Paul's return by failing to repair the damaged apartment, and to supply electricity, running water, and a working heater, and by authorizing the demolition of the housing development.

33. Plaintiff **HILDA JOHNSON** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's C.J. Peete public housing development.

34. Ms. Johnson lived in the C.J. Peete development for approximately forty (40) years. She was displaced after Hurricane Katrina and is currently homeless, living with various friends in different locations. She has visited her apartment at the C.J. Peete development frequently and found water damage to her ceiling and tiles, and mold. Ms. Johnson would like to return to her home. She has no place else to go. Defendants prevented her from moving in permanently by failing to make needed repairs, and by authorizing the demolition of the housing development

35. Plaintiff **CYNTHIA BELL** is an African-American citizen of the United States. Prior to Hurricane Katrina she leased an apartment at HANO's St. Bernard public housing development.

36. Ms. Bell has lived in the St. Bernard housing development for approximately five (5) years. She was displaced after the Hurricane is living temporarily with family in New Orleans, Louisiana. She visited her apartment and found flood and wind damage. Ms. Bell would like to return permanently to her apartment, but Defendants have prevented her from moving in by failing to make needed repairs, and by authorizing the demolition of the housing development.

37. Plaintiff **LOLITA GIBSON** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's St. Bernard public housing development.

38. Ms. Gibson lived in the St. Bernard housing development for approximately forty (40) years. She was displaced after Hurricane Katrina and is living temporarily in Houston, Texas. She was allowed to visit her apartment and found flood and wind damage and mold. Ms. Gibson would like to return to her apartment, but Defendants have prevented her from moving in permanently by failing to make needed repairs, and by authorizing the demolition of the housing development.

39. Plaintiff **NICOLE BANKS** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased a townhouse at HANO's Florida public housing development.

40. Ms. Banks lived in the Florida housing development for approximately twenty-nine (29) years. She was displaced after Hurricane Katrina and is living in temporary housing in New Orleans. Her townhouse at the Florida development sustained flood damage. She would like to return to the Florida apartment because it is in a safe location where she can raise her children.

41. Plaintiff **JUDITH WATSON** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's B.W. Cooper public housing development.

42. Ms. Watson has lived in the B.W. Cooper development for approximately thirty-five (35) years and currently serves as the vice president of the resident council. She was displaced after the storm and lives temporarily in Baton Rouge, Louisiana. She visited her apartment the B.W. Cooper public housing development and found minimal damage. She wants to move back into her apartment because it is affordable.

Defendants prevented her from moving in permanently, however, by boarding up her apartment, and by authorizing the demolition of the housing development

43. Plaintiff **GLORIA WILLIAMS** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's C.J. Peete public housing development in New Orleans, Louisiana.

44. Ms. Williams has lived in the C.J. Peete development for approximately twenty-two (22) years. She was displaced following the storm and is living temporarily in Algiers, Louisiana. She visited her apartment after the storm and found minimal damage. Ms. Williams wants to move back into her apartment because it is affordable and accessible to public transportation. Defendants prevented her from returning permanently, however, by failing to supply electricity, running water and a working heater in her apartment, and by authorizing the demolition of the housing development.

45. Plaintiff **MARY ANN WRIGHT** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's Lafitte public housing development.

46. Ms. Wright lived in the Lafitte housing development for approximately twenty (20) years. She was displaced after the storm and is living temporarily in Houston, Texas. She visited her apartment at the Lafitte public housing development on several occasions and found minor flood damage, mold and mildew. She would like to move back into her apartment because she was born and raised in New Orleans, it is her home, and her apartment is affordable. Defendants prevented her moving in permanently, however, by failing to make repairs, provide electricity, running water and

a working heater in Ms. Wright's apartment, and by authorizing the demolition of the development.

47. Plaintiff **CATRICE DOUCET** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's Iberville public housing development.

48. Ms. Doucet lived in the Iberville housing development for approximately six (6) months, and was selected as a member of the resident council. She was displaced after the storm and lives temporarily in Marshall, Texas. Ms. Doucet visited her apartment at Iberville and found roof and flood damage, and mold. She wants to move back into her apartment; however, Defendants prevented her from returning permanently by failing to make the needed repairs.

49. Plaintiff **LINDA DeGRUY** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's Iberville public housing development.

50. Ms. DeGruy lived in the Iberville housing development for approximately eight (8) years. She was displaced after the storm and lived temporarily in Houston, Texas. She visited her apartment at Iberville on several occasions and found roof and flood damage and mold. In June of 2006, Ms. DeGruy returned to her Iberville apartment because the cost of utilities in Houston was a financial hardship. She would like to remain in her home; however, Defendants failure to complete needed repairs may force her to leave.

51. Plaintiff **KIM PAUL** is an African-American citizen of the United States. Prior to Hurricane Katrina, she leased an apartment at HANO's Iberville public housing development.

52. Ms. Paul lived in the Iberville housing development for approximately twenty-one (21) years and is currently the president of the resident council. She was displaced after Hurricane Katrina and lived temporarily with a friend in New Orleans. In February of 2006, she was invited by HANO to return to her apartment. Ms. Paul returned to her apartment at the Iberville housing development in March of 2006 and found it in need of repair. She would like to remain in her home; however, Defendants' failure to make needed repairs may force her to leave.

B. DEFENDANTS

53. Defendant **ALPHONSO JACKSON** is the Secretary of Defendant **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**, the federal housing agency responsible for increasing homeownership, supporting community development and increasing access to affordable housing in a nondiscriminatory manner. All powers and functions of Defendant HUD are administered under the supervision and direction of Defendant JACKSON. 42 U.S.C. § 3532. He is sued in his official capacity in connection with actions taken under color of federal law. As Secretary, Defendant JACKSON coordinates federal activities affecting housing and urban development; provides technical assistance and information to state, county, town, village, or other local governments in response to community and metropolitan development problems; and consults and cooperates with state agencies concerning federal and state programs for assisting communities in developing solutions to community and metropolitan

development problems. See 42 U.S.C. § 3532(b). Defendant JACKSON is responsible for implementing the U.S. Housing Act of 1937, 42 U.S.C. § 1437 *et seq.* and its regulations relating to low-income housing assistance to public housing authorities. Defendant JACKSON is also responsible for administrative enforcement of the Fair Housing Act, 42 U.S.C. § 3604 *et seq.* and is obligated to administer housing and urban development activities and programs in a manner that affirmatively furthers fair housing. 42 U.S.C. § 3808(e)(5). As the receiver of Defendant HANO, Defendant Jackson appointed Defendants THORSON and BABERS to their HANO posts.

54. Defendant **HOUSING AUTHORITY OF NEW ORLEANS**, is a public corporation created, pursuant to the Louisiana Housing Authorities Law, LA. REV. STAT. ANN. § 40:381 *et seq.* (2006), to address “a shortage of decent, safe, and sanitary dwelling accommodations . . .” LA. REV. STAT. ANN. § 40:392 (2006). It is responsible for providing safe, decent, affordable housing to low-income citizens by creating and sustaining viable communities and for facilitating resident self-sufficiency and upward mobility. HANO has the authority to “improve, reconstruct, renovate, rehabilitate, . . . manage, own, lease and operate housing, housing projects or developments, or any portions of housing projects or developments, and nonresidential and mixed-use facilities.” LA. REV. STAT. ANN. § 40:436A. In 2002, Defendant HUD placed Defendant HANO in receivership after allegations of mismanagement and money squandering.

55. Defendant **WILLIAM C. THORSON** is the executive administrator of Defendant HANO. He is sued in his official capacity in connection with actions taken under color of state law. Defendant Thorson is responsible for the day-to-day operations of HANO. His responsibilities include employing and supervising HANO’s

employees to ensure that the mission of the housing authority is accomplished in an efficient manner. See LA. REV. STAT. ANN. § 40:539C.

56. Defendant **C. DONALD BABERS** is the chairman of the Board of Commissioners of Defendant HANO. He is sued in his official capacity in connection with actions taken under color of state law. The Board of Commissioners is the governing body of Defendant HANO. See LA. REV. STAT. ANN. §§ 40:531 and 40:539. Defendant Babers has the authority to enter into contracts for “services, privileges, works, or facilities for or in connection with its developments or the occupants thereof.” See LA. REV. STAT. ANN. § 40:539C(6). He may also enter into agreements for federal financial assistance relating to the development or administration of public housing projects. *Id.*

FACTUAL BACKGROUND

A. PUBLIC HOUSING STOCK BEFORE HURRICANE KATRINA

57. Amidst allegations of mismanagement and squandering money, in 2002, HUD placed HANO in receivership. After the takeover, the HUD receiver team then began redeveloping five of the City’s ten large public housing developments with funding from federal grants under the Homeownership and Opportunity for People Everywhere (HOPE VI) program. Several developments were replaced with mixed-income communities. As a result of this demolition/redevelopment process, hundreds of public housing residents reported that they were forced to relocate to other rental properties without adequate compensation from HUD for housing and relocation costs, causing residents to face mounting housing costs that they were unprepared to pay.⁸

⁸ See *Renfro v. Housing Authority of New Orleans and Catherine Lamberg, Receiver*, Civil Action No. 03-3613 (E.D L.A. 2003) (Complaint for Declaratory Judgment).

58. Defendants' public housing development effort came to a screeching halt on August 29, 2005, when Hurricane Katrina hit New Orleans, causing its levees to give way and leaving a sea of devastation. When the hurricane struck, public housing residents composed greater than 10 percent of all Orleans Parish residents. Tens of thousands of residents are now displaced.

B. DEFENDANTS' ACTIONS DISPROPORTIONATELY IMPACT LOW-INCOME AFRICAN-AMERICAN PUBLIC HOUSING RESIDENTS

59. It is undisputed that Hurricane Katrina had a disproportionate impact on African-American residents of New Orleans. According to U.S. Census data, in 2000, the population of New Orleans was approximately 67 percent African American. Thirty-five percent of the African-American population had incomes below the poverty line.

60. Within the areas damaged by Katrina and the levee breaches, the population was 75 percent African-American. More than 29 percent of the population lived below the poverty line and the median income was \$25,000. Whites constituted only 11 percent of the population living below the poverty line and their median income was \$61,000.⁹ It is estimated that if the reconstruction of New Orleans was limited to the population previously residing in areas undamaged by Hurricane Katrina, the city could lose about 50% of its white residents but more than 80% of its African-American residents.¹⁰

61. Pre-Hurricane Katrina, public housing residents were overwhelmingly African-American. Defendant HANO reported that from February of 2005 to May 31, 2006,

⁹ Logan, *supra* note 1, at 7, 15.

¹⁰ *Id.* at 16.

100% of public housing residents were African-American.¹¹ The demolition of 5,000 public housing apartments will adversely impact African-Americans and further exclude African-American residents from the city.

C. DEFENDANTS' CONTRADICTORY POST-KATRINA PROMISES TO REOPEN, REPAIR AND REBUILD PUBLIC HOUSING DEVELOPMENTS

62. In the months following Hurricane Katrina, HUD failed to undertake meaningful repairs or develop a plan to repair and reopen public housing. On or about June 14, 2006, nearly ten months after the storm, HUD announced its intended plan to demolish all but 2,000 units. Further, HUD issued contradictory statements concerning the future of New Orleans' public housing that suggest that much of the City's public housing is salvageable.

63. Defendants' public housing stock sustained varying degrees of damage – from minor to severe – as a result of the storm and levee breaches. In the months following the storm, approximately 880 public housing families have returned to the Guste, Fischer, and St. Thomas developments.¹²

64. In December of 2005, Congress required that within areas declared a major disaster as a result of Hurricanes Katrina or Rita, HUD preserve all housing that received project-based assistance, to the extent feasible.¹³

65. Initially, Defendants HANO and HUD reported that they intended to clean, repair and open Iberville first, followed by C.J. Peete, a small quadrant of about 300

¹¹ New Orleans Housing Authority Residents Characteristics Report 2005-06, *available at* <http://pic.hud.gov/pic/RCRPublic/rcrha.asp>.

¹² Housing Authority of New Orleans Post Katrina Frequently Asked Questions, *available at* <http://www.hano.org/FAQ.pdf> (last visited May 18, 2006).

¹³ Act of Dec. 30, 2005, *supra* note 2.

units at B.W. Cooper, and Lafitte.¹⁴ They also allegedly plan to move forward with demolition and redevelopment plans that include building additional units, including homeownership units, at Guste, Fischer, and St. Thomas.¹⁵

66. Likewise, on February 15, 2006, HUD advised the U.S. Senate that it planned to reopen a quadrant of B.W. Cooper, make repairs at C.J. Peete, and re-occupy units at Iberville (387 units had been cleaned and repaired and an additional 384 units were under contract for cleaning or restoration).¹⁶

67. On June 14, 2006, without notice to residents or opportunity to be heard, HUD announced that it would demolish more than 5,000 public housing apartments – St. Bernard, C.J. Peete, B.W. Cooper and Lafitte housing developments – in the upcoming months and replace them with mixed-income developments. HUD also announced that it would reopen 1,000 public housing units although it continues to extend the date when that might be accomplished.¹⁷

68. Notwithstanding Defendants' promises to repair and reopen public housing in New Orleans, they have failed to timely repair developments that need only minor repairs, to mitigate damage that has occurred in recent months, or to prevent further damage.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ HOUSING AUTHORITY OF NEW ORLEANS, QUESTIONS FOR THE HEARING ON "REBUILDING NEEDS IN KATRINA-IMPACTED AREAS" 3-4 (2006).

¹⁷ Saulny, *supra* note 7.

D. DEFENDANTS INTENTIONALLY DISCRIMINATE AGAINST LOW-INCOME AFRICAN-AMERICAN PUBLIC HOUSING RESIDENTS BY FAILING TO REOCCUPY AND REPAIR HOUSING UNITS

69. Based on public statements made by Defendant HUD, Defendants HANO's and HUD's intent to exclude low-income African-American residents from New Orleans is clear.

70. Public statements made by Defendants and supported by other Louisiana officials in reference to low-income African-American public housing residents reveals that their failure to promptly repair and reopen public housing units is motivated by discriminatory intent. Defendant Alphonso Jackson, Secretary of HUD stated on Sept. 29, 2005 that post-Katrina New Orleans "is not going to be as black as it was for a long time, if ever again,"¹⁸ and on April 24, 2006 that "Only the best residents should return. Those who paid rent on time, those who held a job and those who worked."¹⁹

71. New Orleans City Council President Oliver Thomas stated on February 20, 2006 at a city council meeting that, "We don't need soap opera watchers all day," and that if displaced residents want to come back and want to live in public housing, they better want to work.²⁰ Likewise, Louisiana Congressman Richard Baker (R-LA) said, after the hurricane, "We finally cleaned up public housing in New Orleans. We couldn't do it, but God did."²¹

CLASS ACTION ALLEGATIONS

72. Plaintiffs bring this action in their own right and on behalf of all others similarly situated public housing residents who as of August 29, 2005, resided in Orleans Parish

¹⁸ Bowman, *supra* note 3.

¹⁹ Walsh, *supra* note 4.

²⁰ Savidge, *supra* note 5.

²¹ Babington, *supra* note 6.

pursuant to leases with HANO, were involuntarily displaced, and desire to return to their public housing units. Plaintiffs seek certification of a class pursuant to Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure.

73. Plaintiffs proposed class seeks to represent (a) all African-American citizens who resided in a HANO public housing development on August 29, 2005, were displaced as a result of Hurricane Katrina, and were unable to return permanently to their public housing residence due to Defendants' failure to permit re-occupancy of habitable public housing apartments that sustained little or no damage as a result of the storm ("SUBCLASS A"); (b) all African-American citizens who resided in a HANO public housing development on August 29, 2005, were displaced as a result Hurricane Katrina, and were unable to return permanently to their public housing residence due to Defendants' failure to repair apartments that sustained moderate to severe damage ("SUBCLASS B"); and (c) all African-American citizens who resided in a HANO public housing development August 29, 2005, were displaced due to Hurricane Katrina, have returned to their public housing unit but are living in substandard conditions ("SUBCLASS C").

74. Plaintiffs and the putative class-members had their right to return or to live in a decent affordable housing denied or abridged by the actions, inactions, policies and practices of the Defendants, in violation of federal and state laws.

A. THIS CASE MEETS EACH REQUIREMENT OF FEDERAL RULE OF CIVIL PROCEDURE 23(A)

75. Numerosity. Class members are so numerous that joinder of all members in a single lawsuit is impracticable, and individual litigation by each would necessarily and substantially burden the operation of the judicial system and is prohibitive because the

individual class members lack the financial means to maintain individual actions. Further, the individual class members lack the knowledge, sophistication, and financial means to pursue individual litigation. Individual litigation by class members also presents the risk of inconsistent adjudications, resulting in irreconcilable precedents regarding the government's responsibilities in returning public housing residents to their homes.

76. Commonality. Common questions of law and fact exist as to all members of the Class. Specifically, each member of the Class has been affected and will continue to be affected by Defendants' rule changes concerning which housing developments will be re-opened and, therefore, who will be homeless. In reaching these decisions, defendants are required to apply applicable federal law, as well as their regulations and standards, in an equitable and impartial manner, forbidding them from discriminating against residents on the basis of race. Defendants' failure to comply with these laws and regulations present common questions of law and fact that will predominate this case.

77. Typicality. Plaintiffs' claims are typical of the claims of all class members. Each class member was a resident of New Orleans public housing and was displaced by Hurricane Katrina. Further, each class member suffered housing discrimination on the basis of race due to Defendants' acts and omissions. Likewise, each class member has been victimized by Defendants' arbitrary decisions as to which public housing units they will reopen and which residents they will permit to reoccupy those units.

78. Adequacy of Representation. 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. Plaintiffs and the Class have retained counsel with expertise and experience in litigating numerous, major class action cases, including disaster relief cases, and have adequate resources to litigate and protect the interests of the Class.

B. THIS CASE MEETS EACH REQUIREMENT OF FEDERAL RULE OF CIVIL PROCEDURE 23(B)

79. The requirements of Federal Rule of Civil Procedure 23(b)(2) are met in that the state laws which are the subject of this lawsuit have been applied to the members of the Class as a whole, and defendants have acted and refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole. A class action is the exclusive method by which the interests of all affected persons can be adequately protected. The requirements of Federal Rule of Civil Procedure 23(b)(3) are met in that the questions of law or fact common to the members of the Class predominate over any questions affecting only individual members. A class action is superior because the interests of the individual class members are the same and it is desirable to have litigation of claims regarding Defendants in this court.

CLAIMS FOR RELIEF

COUNT ONE: VIOLATION OF FAIR HOUSING ACT, 42 U.S.C. § 3604 – DISPARATE IMPACT

80. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

81. Defendants' failure to reopen and repair public housing adversely impacts its public housing residents, all of whom are African-American, in violation of the Fair Housing Act, 42 U.S.C. § 3604(a).

82. Defendants' plan to demolish 5,000 units of public housing adversely impacts African-American residents in violation of the Fair Housing Act, 42 U.S.C. § 3604(a).

83. Defendants' failure to repair New Orleans public housing units has resulted in the constructive eviction of African-American public housing residents who have returned to their units, in violation of 42 U.S.C. § 3604(a).

84. Defendants have discriminated in the provision of services to public housing residents, in violation of 42 U.S.C. § 3604(b).

85. Defendants have made discriminatory statements about the availability of housing, in violation of 42 U.S.C. § 3604(d).

86. The practices of Defendants, as alleged herein, actually adversely affect the low-income, African-American residents of public housing in New Orleans, as officials predicted.

COUNT TWO: VIOLATION OF FAIR HOUSING ACT, 42 U.S.C. § 3604 – DISPARATE TREATMENT

87. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

88. Defendants' conduct and statements, as alleged herein, constitute disparate treatment under the Fair Housing Act, 42 U.S.C. § 3604(a) and (b). Plaintiffs are African-American, a protected class under the Fair Housing Act, and have suffered real injury. Defendants' statements create a reasonable inference that race was a significant factor in post-Katrina decisions affecting public housing in New Orleans.

89. Defendants' failure to repair New Orleans public housing units has resulted in the constructive eviction of African-American public housing residents who have returned to their units, in violation of 42 U.S.C. § 3604.

COUNT THREE: VIOLATION OF FAIR HOUSING ACT, 42 U.S.C. § 3608 (ADMINISTRATIVE PROCEDURES ACT, 5 U.S.C. § 702 ET SEQ.)

90. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

91. Defendants have violated § 3608 of the Fair Housing Act, which requires all agencies to administer their programs and activities related to housing and urban development in a manner affirmatively to further the purposes of the Fair Housing Act. 42 U.S.C. § 3608.

92. Defendants' breach of their affirmative duty to further fair housing goals in violation of the Administrative Procedures Act, which is enforceable through 5 U.S.C. § 702 *et seq.*

COUNT FOUR: U.S. HOUSING ACT OF 1937 – DEMOLITION OF PUBLIC HOUSING, 42 U.S.C. § 1437p (ADMINISTRATIVE PROCEDURES ACT, 5 U.S.C. § 702 ET SEQ., AND 42 U.S.C. § 1983)

93. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

94. Defendants have announced their intent to demolish 5,000 units of public housing. Further, through their willful neglect of the condition of public housing since Hurricane Katrina, Defendants have effected a de facto demolition of such housing.

95. Under the U.S. Housing Act of 1937, 42 U.S.C. § 1437p(a)(3), Defendants must undertake certain procedures prior to demolishing a public housing development, including consulting with residents.

96. Defendants have failed to confer with residents or otherwise satisfy the requirements set forth in 42 U.S.C. § 1437p(a)(3) that are prerequisites to demolition of a public housing unit, in violation of the Administrative Procedures Act, 5 U.S.C. § 702 *et seq.*, and 42 U.S.C. § 1983.

COUNT FIVE: CONSTRUCTIVE EVICTION

97. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

98. Plaintiffs have manifested their intent to return and occupy their units. Defendants have, and continue to, constructively evict Plaintiffs by prohibiting Plaintiffs from accessing their rental units. Defendants' action and inaction have caused additional decay, damage, and deterioration of public housing developments.

99. Defendants have failed to restore the public housing units to habitable conditions and have substantially interfered with Plaintiffs' rights as tenants to quiet enjoyment of their property.

COUNT SIX: BREACH OF CONTRACT

100. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

101. Section VIII of the HANO lease requires the landlord to maintain units "in a condition that is decent, safe, sanitary, and in good repair" and to meet other standards. See, e.g., Exhibit A, Housing Authority of New Orleans, *Residential Lease Agreement: Terms and Conditions* (attached).

102. Under Louisiana Civil Code, the lessor is bound to maintain the leasehold in a condition such as to serve the use for which it was hired and to cause the lessee to

be in peaceable possession of the leasehold during the continuation of the lease. LA. CIV. CODE ANN. art. 2682 (2006).

103. Defendants are in breach of the lease and common and statutory law by failing repair damage to their units resulting from Hurricane Katrina and to restore the premises to a safe, sanitary condition for use intended by the lease. The time period is unreasonable because conditions of units have deteriorated because of Defendants' delay in making the necessary repairs.

COUNT SEVEN: VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENTS – EQUAL PROTECTION AND DUE PROCESS (42 U.S.C. § 1983)

104. Plaintiffs re-allege and incorporate by reference all of the allegations set forth in the preceding paragraphs.

105. By intentionally failing to reopen public housing units, whose residents are African-American, Defendants are in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. U.S. CONST. amend. XIV, § 1.

106. By denying Plaintiffs the ability to return to their public housing units, Defendant HANO are depriving residents of their right to property without notice or hearing, in violation of the Due Process Clause of the Fourteenth Amendment. U.S. CONST. amend. XIV, § 1.

107. By intentionally failing to reopen public housing units, whose residents are African-American, Defendants are in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. U.S. CONST. amend. V.

108. By denying Plaintiffs the ability to return to their public housing units, Defendant HUD are depriving residents of their right to property, in violation of the Due Process Clause of the Fifth Amendment. U.S. CONST. amend. V.

109. By reason of the foregoing, Defendants, acting under color of state law, have deprived Plaintiffs, their members, and members of the proposed class of the rights, privileges, and immunities secured to them under the Fifth and Fourteenth Amendments to the United States Constitution and protected under 42 U.S.C. § 1983.

110. Plaintiffs have no adequate remedy at law for such deprivation of their rights, privileges, and immunities.

COUNT EIGHT: VIOLATION OF INTERNATIONAL LAW

111. Plaintiffs re-allege and reincorporate by reference all of the allegations set forth in the preceding paragraphs.

112. Defendants' actions and inactions also violate international law as it applies to internally displaced persons. According to international law, the victims of Katrina are "internally displaced persons" because they were displaced within their own country as a result of natural disaster.

113. Principle 28 of the Guiding Principles on Internal Displacement requires that the U.S. government recognize the human right of displaced people to return home. The United States must "allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residents . . . Such authorities shall facilitate the reintegration of returned or resettled internally displaced persons. Special efforts should be made to ensure the full participation of internally

displaced persons in the planning and management of their return or resettlement and reintegration.”

JURY DEMAND

114. Plaintiff hereby demands a trial by jury on all issues to which they are so entitled.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs herein prays after due proceedings are held, they be awarded the following:

1. Certification of a class, pursuant to Fed. R. Civ. P. 23(b)(2) and Fed. R. Civ. P. 23(b)(3), consisting of all public housing residents who as of August 29, 2005, resided in Orleans Parish and were displaced, and desire to return to their public housing units;
2. Issue appropriate injunctive relief to prevent Defendants from illegally demolishing any public housing apartments in New Orleans;
3. Declaratory judgment that Defendants’ failure to reopen, repair, and replace housing units, intentionally discriminate and adversely impact African-American lower income housing residents ability return to their units in violation of The Fair Housing Act, 42 U.S.C. §§ 3604 and 3608(d) and de facto demolition requirements, 42 U.S.C. § 1437p;
4. Declaration that Defendants have constructively evicted plaintiffs and breach their public housing lease in violation of state statutory and common law;
5. Declaration that Defendants’ failure to reopen public housing has denied Plaintiffs and class members equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution;

6. Entrance of a permanent injunction directing Defendants and their directors, officers, agents, and employees to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
7. Order to Defendants to cease discriminating against African-American public housing residents;
8. Order to Defendants to reopen habitable public housing units;
9. Order to Defendants to make all needed repairs as soon as practicable so that residents can return;
10. Award of compensatory damages to the individual plaintiffs in an amount to be determined by a jury that would fully compensate them for the economic loss, humiliation, embarrassment, and emotional distress that has been caused by the conduct of the Defendants alleged herein;
11. Award of costs and disbursements associated with the filing and maintenance of this action pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2), including an award of reasonable attorneys' fees; and
12. Grant of such relief that may be allowed by law or in equity.

Date: June 27, 2006

Respectfully submitted:

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* Counsel will move to appear before this Court *pro hac vice*.