

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

HARVEST FAMILY CHURCH,  
HI-WAY TABERNACLE, and  
ROCKPORT FIRST ASSEMBLY OF  
GOD,

*Plaintiffs,*

v.

FEDERAL EMERGENCY  
MANAGEMENT AGENCY, WILLIAM  
B. LONG, Administrator of the Federal  
Emergency Management Agency,

*Defendants.*

Civil No. 4:17-cv-2662  
**Jury Demanded**

**DECLARATION OF DANIEL BLOMBERG**

1. My name is Daniel Blomberg. I am over the age of 21 and am capable of making this unsworn declaration pursuant to 28 U.S.C. § 1746. I have not been convicted of a felony or crime involving dishonesty, and the facts contained herein are within my personal knowledge.

2. I am an attorney at the Becket Fund for Religious Liberty and serve as one of the firm's counsel for the Plaintiff Churches in the above-captioned lawsuit.

3. After the September 8, 2017 hearing where this Court instructed the Plaintiffs to apply for Public Assistance ("PA") grants, I assisted the Churches in trying to determine the proper way to apply.

4. The Churches were very busy with recovery and relief efforts, and had limited ability to access the internet, their own internal files (some of which had been damaged by the storm or moved during recovery efforts), or make phone calls.

5. FEMA's PA grant application instructions for disaster victims did not clearly identify where to submit applications.

6. For instance, I repeatedly visited the FEMA PA grant FAQ webpage over a period of several weeks, and clicked on the link to the question "How do I apply for Public Assistance?" See How do I apply for Public Assistance?" <https://www.fema.gov/public-assistance-frequently-asked-questions##grant>. Every time I have clicked on that link, I was led to a web page with an error message stating "404 Page Not Found. Oops. This isn't good, you're getting an error message." The last time I visited the webpage was October 11, 2017, and it still led to the same error message.

7. Accordingly, the Churches mailed the proper forms to the Washington, DC, headquarters for FEMA's Public Assistance program.

8. Out of an abundance of caution to ensure that the Churches had correctly submitted their applications, I continued to research whether there were other ways to submit them.

9. I saw a letter from Texas Governor Greg Abbott stating that FEMA "Public Assistance (PA)" grants were available to nonprofit organizations and that "any questions" about the grants could be directed to each "county's district coordinator with the Texas Division of Emergency Management." See Gov. Greg Abbott, *Disaster*

*Relief Letter* at 2 (August 31, 2017), [https://gov.texas.gov/uploads/files/press/Letter to County Judges.pdf](https://gov.texas.gov/uploads/files/press/Letter_to_County_Judges.pdf).

10. The letter linked to a map of the county district coordinators and gave their office and cell phone numbers as the means of contacting them. *See* District Coordinators Map, <http://www.dps.texas.gov/dem/FieldResponse/DistCoordMap.pdf>.

11. Accordingly, I called Ronald Walker, the Texas Division of Emergency Management (“TDEM”) District Coordinator for Liberty County, where Hi-Way Tabernacle is located. TDEM is a Division of the Texas Department of Public Safety.

12. The call was on September 12, 2017, at 12:59 PM EST. I explained that I was assisting Hi-Way Tabernacle and was trying to find out how it, as a private non-profit in his district, could apply for a PA Program grant. I explained that Hi-Way was a church and had been severely damaged by Hurricane Harvey. Walker said he would need to check with TDEM and asked to call me back.

13. Walker called back at 1:12 PM EST on the same day. I took contemporaneous notes of our conversation. He said that since Hi-Way Tabernacle “is a church, you’re not entitled to PA.” When I asked him to explain, he was apologetic, but said that, “If it’s a church, you’re eligible for SBA, not for PA.” He said I could speak to “Natasha” at a particular phone number, and she could further explain why churches aren’t eligible for PA grants.

14. By looking online at TDEM’s website, I learned that “Natasha” was Natasha Valentine of TDEM’s Regional Disaster Finance Unit.

15. I called Valentine two or three times over the next few days. On September 15 at 11:47 AM EST, Valentine called me back. We spoke for approximately 12 minutes. I took contemporaneous notes as we talked.

16. I explained that I was calling on behalf of Hi-Way Tabernacle to help the church find out how to apply for a PA grant as a private nonprofit. I informed her that Walker stated that Hi-Way was ineligible for a PA grant because it was a church, and that he had referred me to her to get more information.

17. She asked me whether Hi-Way had been damaged by Hurricane Harvey. I said that it had. I explained that it was seeking funding for severe flooding damage to its sanctuary, and that it was using its church gym for disaster relief services.

18. Valentine confirmed that Walker correctly stated that Hi-Way was ineligible for PA funding for the flooding damage to its sanctuary. She said, “You, as a faith-based organization, are not eligible to apply for a PA assistance grant.”

19. Valentine volunteered that Hi-Way could potentially seek reimbursement from Liberty County for disaster relief services, but that funding for repair to the church’s sanctuary would have to come from insurance or an SBA loan.

20. Valentine cautioned that if the church did not already have an agreement with the county to receive reimbursement for the services it was already offering, the county might not be receptive to receiving a bill from the church.

21. I asked her to confirm that Hi-Way would not be eligible for a PA grant because it was a church established for a religious purpose. *Id.* Valentine responded, “Right, absolutely not eligible.”

22. I asked if the same rule would apply to Harvest Family Church, which was also established as a church and was in Harris County, a county immediately adjacent to Liberty County. Valentine said that Harvest Family Church would also be ineligible for the same reason.

23. Valentine apologized and said that she “didn’t make the rules,” and that she had also received calls from several other churches on this issue and had told them that they would also be ineligible for PA grants for the same reason.

24. Both Walker and Valentine were friendly and professional during our calls.

25. Exhibit 1 attached to this declaration is a true and correct copy of emails from FEMA’s counsel to counsel for the Churches.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 11, 2017.

/s/ Daniel Blomberg  
Daniel Blomberg

# **Exhibit 1**

**From:** Eric Rassbach  
**Sent:** Friday, September 29, 2017 4:42 PM  
**To:** Wolfson Young, Danielle (CIV) <[Danielle.Young2@usdoj.gov](mailto:Danielle.Young2@usdoj.gov)>  
**Cc:** Daniel Blomberg <[dblomberg@becketlaw.org](mailto:dblomberg@becketlaw.org)>; Diana Verm <[dverm@becketlaw.org](mailto:dverm@becketlaw.org)>; Farby, Lesley (CIV) <[Lesley.Farby@usdoj.gov](mailto:Lesley.Farby@usdoj.gov)>; Mark Rienzi <[mrienzi@becketlaw.org](mailto:mrienzi@becketlaw.org)>; D'Ottavio, Kari E. (CIV) <[Kari.E.D'Ottavio@usdoj.gov](mailto:Kari.E.D'Ottavio@usdoj.gov)>  
**Subject:** Re: Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Danielle,

I take it that you all will not approve Category B funding during the 60 day period. We oppose the motion.

Best,

Eric

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**From:** Wolfson Young, Danielle (CIV) <[Danielle.Young2@usdoj.gov](mailto:Danielle.Young2@usdoj.gov)>  
**Sent:** Friday, September 29, 2017 3:29 PM  
**To:** Eric Rassbach  
**Cc:** Daniel Blomberg; Diana Verm; Farby, Lesley (CIV); Mark Rienzi; D'Ottavio, Kari E. (CIV)  
**Subject:** RE: Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Eric,

Here are the responses to your two queries:

1. For Category A debris removal assistance, FEMA would be unable to determine the eligibility of your clients during the 60 day period. For Category B emergency protective measures, eligible applicants include the State and applicable local government. If your clients enter into an agreement with the state or local government in which the local government agrees to apply to FEMA for the costs, then FEMA would reimburse the local government and the local government could reimburse your clients.
2. FEMA will assign a representative or point of contact for your clients to work with. FEMA, working with the State, can help applicants complete draft project worksheets during the 60 days. However, these project worksheets will only document scopes of work. They cannot establish cost estimates until after the applicants have applied to SBA and been determined eligible or ineligible for a loan.

Danielle

**From:** Eric Rassbach [<mailto:erassbach@becketlaw.org>]  
**Sent:** Friday, September 29, 2017 2:09 PM  
**To:** Wolfson Young, Danielle (CIV) <[dyoung@CIV.USDOJ.GOV](mailto:dyoung@CIV.USDOJ.GOV)>  
**Cc:** Daniel Blomberg <[dblomberg@becketlaw.org](mailto:dblomberg@becketlaw.org)>; Diana Verm <[dverm@becketlaw.org](mailto:dverm@becketlaw.org)>; Farby, Lesley (CIV) <[LFarby@civ.usdoj.gov](mailto:LFarby@civ.usdoj.gov)>; Mark Rienzi <[mrizeni@becketlaw.org](mailto:mrizeni@becketlaw.org)>; D'Ottavio, Kari E. (CIV) <[kdottav@CIV.USDOJ.GOV](mailto:kdottav@CIV.USDOJ.GOV)>  
**Subject:** Re: Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Danielle --

Thanks. Totally appreciate the need to observe Yom Kippur, though I think this is really a problem DOJ created by waiting until very late (midday yesterday) to propose the stay motion. Given that there are other attorneys at DOJ who won't be observing Yom Kippur, DOJ should be able to accommodate your personal religious observance (as the law requires) while still continuing the government's business.

Regarding how our clients' applications for PA grants would be processed during the proposed stay:

\* I see you say FEMA would not \*deny\* my clients' PA grant applications during the stay. Would FEMA be able to \*approve\* my clients' pending RPAs during the proposed 60-day stay, so that they would be eligible to receive Category A and B Public Assistance grants during the 60 days? I am just trying to figure out what would happen as a practical matter on that front.

\* Also, my clients have some pressing decisions to make, including those related to facility demolition. These decisions will inform a lot of their future plans, including how to handle demolition and how and where to rebuild. At least one of my clients is currently prevented from holding religious services. Would FEMA agree to assign a PA representative to my clients to manage the processing of their projects during the next 60 days?

Thanks,

Eric

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**From:** Wolfson Young, Danielle (CIV) <[Danielle.Young2@usdoj.gov](mailto:Danielle.Young2@usdoj.gov)>  
**Sent:** Friday, September 29, 2017 12:52 PM  
**To:** Eric Rassbach  
**Cc:** Daniel Blomberg; Diana Verm; Farby, Lesley (CIV); Mark Rienzi; D'Ottavio, Kari E. (CIV)



**Subject:** RE: Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Hi Eric,

We need to file today in order to give the Court adequate time to review the motion. Could you please let me know by 3 PM what your clients' position is on the stay? My apologies for the early timeframe, but I have to leave early in observance of Yom Kippur today. Thank you in advance for understanding.

Sincerely,

Danielle

**Danielle Wolfson Young**

Trial Attorney | U.S. Department of Justice

Civil Division | Federal Programs Branch

Direct Dial: (202) 616-2035

[Danielle.Young2@usdoj.gov](mailto:Danielle.Young2@usdoj.gov)

**From:** Wolfson Young, Danielle (CIV)

**Sent:** Friday, September 29, 2017 10:11 AM

**To:** 'Eric Rassbach' <[erassbach@becketlaw.org](mailto:erassbach@becketlaw.org)>

**Cc:** Daniel Blomberg <[dblomberg@becketlaw.org](mailto:dblomberg@becketlaw.org)>; Diana Verm <[dverm@becketlaw.org](mailto:dverm@becketlaw.org)>;

Farby, Lesley (CIV) <[LFarby@civ.usdoj.gov](mailto:LFarby@civ.usdoj.gov)>; Mark Rienzi <[mrienzi@becketlaw.org](mailto:mrienzi@becketlaw.org)>;

D'Ottavio, Kari E. (CIV) <[kdottav@civ.usdoj.gov](mailto:kdottav@civ.usdoj.gov)>

**Subject:** RE: Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Dear Eric,

Thank you for getting back to us. FEMA will not deny any houses of worship funding during the reconsideration period, but FEMA may process their applications during this time period.

Thank you,

Danielle

**Danielle Wolfson Young**

Trial Attorney | U.S. Department of Justice

Civil Division | Federal Programs Branch

Direct Dial: (202) 616-2035

[Danielle.Young2@usdoj.gov](mailto:Danielle.Young2@usdoj.gov)

**From:** Eric Rassbach [<mailto:erassbach@becketlaw.org>]  
**Sent:** Friday, September 29, 2017 9:12 AM  
**To:** D'Ottavio, Kari E. (CIV) <[kdottav@CIV.USDOJ.GOV](mailto:kdottav@CIV.USDOJ.GOV)>  
**Cc:** Daniel Blomberg <[dblomberg@becketlaw.org](mailto:dblomberg@becketlaw.org)>; Diana Verm <[dverm@becketlaw.org](mailto:dverm@becketlaw.org)>; Farby, Lesley (CIV) <[LFarby@civ.usdoj.gov](mailto:LFarby@civ.usdoj.gov)>; Wolfson Young, Danielle (CIV) <[dyoung@CIV.USDOJ.GOV](mailto:dyoung@CIV.USDOJ.GOV)>; Mark Rienzi <[mrizeni@becketlaw.org](mailto:mrizeni@becketlaw.org)>  
**Subject:** Re: Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Kari,

Thanks for your email. To clarify, when you state that you would not "adjudicate" our clients' applications for PA grants, do you mean you would not process them at all? Or do you mean something else?

Thanks,

Eric

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**From:** D'Ottavio, Kari E. (CIV) <[Kari.E.D'Ottavio@usdoj.gov](mailto:Kari.E.D'Ottavio@usdoj.gov)>  
**Sent:** Thursday, September 28, 2017 11:47 AM  
**To:** Eric Rassbach  
**Cc:** Daniel Blomberg; Diana Verm; Farby, Lesley (CIV); Wolfson Young, Danielle (CIV)  
**Subject:** Harvest Family Church v. FEMA, No. 17-cv-2662 - request for consent to stay motion

Dear Eric,

We plan to move for a 60-day stay of the case so that FEMA can determine whether to make any changes to its current policy. FEMA would not adjudicate pending applications from houses of worship under the current policy during the reconsideration period, so there would be no prejudice to your clients. Would you consent to our stay motion? Please let me know your position ASAP as we are hoping to get the stay motion on file today.

Sincerely,  
Kari

**Kari E. D'Ottavio**  
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