

Exhibit A

**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 PASTOR PAUL CAPEHART

1. My name is Paul Capehart. 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 either within my personal knowledge, are based upon teachings of my church with which I am familiar and which I believe to be true and correct, or based on publicly available information.

2. I am the pastor of Harvest Family Church (the “Church”) in Cypress, Texas, a town just outside Houston and within Harris County.

3. My wife, Brooke, is the Church’s worship leader. Both she and I graduated from Southwestern Assemblies of God University, and we have been involved in ministry for decades. We served as full-time staff at New Life Church in Cypress,

Texas, until 2011, when we were commissioned by New Life to start Harvest Family Church.

4. The Church is a member congregation of the Assemblies of God, which is the largest Pentecostal Christian denomination in the United States, with over 3 million adherents. The Assemblies of God has grown to become one of the most robust and diverse religious communities in the world, with over 67 million adherents and 365,000 churches in 255 countries, territories, and provinces. Much of its growth in the United States has been driven by young people and immigrants, with over half of U.S. adherents now under age 35 and almost half of them ethnic minorities. And most of the Assemblies of God's growth internationally has been in the Global South.

5. Harvest Family Church reflects this dynamic of the Assemblies of God—like our surrounding community, we are young, ethnically diverse, and growing.

6. The Church started its ministry in 2011, with our first meeting in our current facility on April 24, 2011. The Church started with just 20-30 members and has grown to over 200 who regularly attend Sunday worship services.

7. We offer a place where people in Cypress and the surrounding area can connect with each other and grow in their relationship with God. We believe God loves everyone, that Jesus came, died, and rose again to offer salvation to everyone, and so we open our doors to everyone.

8. The Church's staff, leadership, ministry teams, and congregation come from a variety of walks of life, ethnic backgrounds, and economic brackets. We are, very intentionally, a house of worship for all nations.

9. The Church invests in its surrounding community. In addition to inviting everyone to participate in our events and services, we regularly plan and host seasonal community events and outreach to those around us.

10. On August 25, 2017, Hurricane Harvey made landfall in Texas as a Category 4 hurricane and started pummeling our community.

11. According to the reports I have seen:

- a. It was the strongest hurricane to make landfall in the United States since more than a decade.
- b. Hurricane Harvey's rain and storm surge dumped trillions of gallons of water on Texas and caused unprecedented flooding. One report I have seen said that the total rainfall from Harvey was over 27 trillion gallons of rain, which is reportedly enough to fill the Houston Astrodome over 85,000 times.
- c. Over 100,000 homes were damaged or destroyed by Hurricane Harvey.
- d. Thousands of people were rescued by boats, helicopters, canoes, buses, dump trucks, and even jet skis.
- e. Tens of thousands were forced to leave their homes and find refuge in emergency shelters.
- f. Current estimates put the current death toll at over 40 victims.
- g. Current estimates are that this is the most costly natural disaster in U.S. history—causing as much damage as Hurricane Katrina and Superstorm Sandy combined.

12. Hurricane Harvey led to flooding that has lasted for days. More flooding is still possible due to continued intermittent rain, saturated ground, river flows, and nearby reservoirs at or near peak capacity.

13. Our Church buildings were devastated by Hurricane Harvey.

14. At the flooding's peak, the area and roads around the Church were completely flooded and impassable. Exhibit 1 attached to this declaration contains true and correct pictures I took on August 28 of the Church's grounds and premises. Exhibit 1 accurately depicts that the Church's grounds and premises were completely underwater.

15. I estimate that the water was at least 2 to 3 feet deep in the Church's parking lot.

16. Inside the Church building, measuring by the debris lines and water marks on the walls, we had a minimum of 1 foot of water throughout and up to 20 inches in some locations.

17. A large tree next to the Church building was felled by the flooding.

18. Due to the flooding and dangerous conditions, we cancelled our on-site worship service for Sunday, August 27, and urged the families of our Church to remain home and look out for their safety and the safety of their neighbors. We still held a live-streamed worship service on the Church's Facebook site.

19. We immediately started work on repairing the Church's facilities, which consist of two side-by-side buildings. One is a single-story brick building that is

almost 40 years old, and the other is a single-story steel building that is almost 30 years old.

20. Our congregation has been “getting after it” to preserve and repair our Church building—we have been tearing out water-logged carpets, extracting puddles, removing soaked drywall and insulation, taking out destroyed furniture and materials, taking down sodden doors, and bringing in fans and dehumidifiers. The Church’s men, women, and children have showed up, put on masks, gloves, and rubber boots, and gotten to work. Exhibit 2 attached to this declaration is a true and correct depiction of the interior of the Church.

21. The damage to the Church is extensive and there is a huge amount of debris in and around the Church facility that requires immediate removal to prevent further damage to the Church and health and safety risks to its members.

22. Some emergency repairs may be necessary to address structural damage to the Church’s facilities.

23. Further, water removal will be necessary to prevent property damage and health and safety risks caused by sitting water, mildew, and mold.

24. The downed tree must be removed. Other trees and tree limbs on the Church’s property may need to be removed for safety reasons.

25. Unless these emergency repairs are performed promptly, the Churches’ facilities could suffer even more damage.

26. My initial estimates are that emergency repairs and debris removal alone will cost tens of thousands of dollars, and maybe over a hundred thousand dollars.

27. The long-term repairs to the infrastructure of the Church's facilities will cost much more. I currently estimate that it will be at least \$300,000.

28. On August 25, 2017, President Trump issued a declaration that Hurricane Harvey had caused a major disaster in Texas. *See* FEMA Release No. HQ017-060, <https://www.fema.gov/news-release/2017/08/25/president-donald-j-trump-approves-major-disaster-declaration-texas>. On August 27, 2017, the President amended the notice of a major disaster declaration to include Harris County, where the Church is located. *See* <https://www.fema.gov/disaster/notices/amendment-no-1-4>.

29. It is my understanding that these declarations made federal funds available to disaster victims under the Public Assistance Program ("PA Program") administered by the Federal Emergency Management Agency ("FEMA"). These grants help with debris removal and emergency protective measures.

30. It is my understanding that nonprofits which meet certain criteria can apply for grants under FEMA's PA Program.

31. It is my understanding that the Church fits all of those criteria but one:

- a. The Church owns the facility that we meet in, which is located at 14950 Cypress N. Houston, Cypress, TX 77429.
- b. The Church is within a location, Harris County, identified in the President's disaster proclamation.
- c. The Internal Revenue Service has issued a determination letter recognizing Harvest Family Church's I.R.C. Section 501(c)(3) nonprofit status.

- d. The Church is open to the general public and does not charge membership or access fees of any type. While church members choose to tithe, their tithes are not required to access the Church's facilities.
- e. The Church provides important services to the community. In addition to using both of our buildings to host community activities and training events from our religious perspective, we also use the buildings to perform religious teaching, training, singing, artistic endeavors, social events, and outreach to youth, seniors, and families. All of these services are provided from our religious perspective and for a religious purpose.

32. It is my understanding that other nonprofits that are eligible for FEMA's disaster relief grants include community centers that provide services which are similar to those provided by the Church, including community enrichment activities and general social welfare activities.

33. FEMA specifically allows disaster relief grants for community centers that provide activities like art classes, sewing and stamp-collecting clubs, neighborhood barbeques, and "various social functions." Other eligible private nonprofit recipients include zoos and museums.

34. However, it is my understanding that FEMA policy categorically discriminates against religious organizations. Specifically, FEMA policy bars grants from going to otherwise eligible recipients if more than 50% of the use of a disaster-damaged facility is for religious purposes.

35. It is my understanding that this exclusionary FEMA policy is not required by either statute or federal regulation.

36. The facilities for which the Church needs immediate disaster assistance are used primarily—i.e., over 50%—for religious purposes.

37. FEMA’s eligibility guide includes a table categorically declaring that “community center services” that are “religious activities, such as worship . . . religious instruction,” or “religious education” are “ineligible.”

Table 3. PNP Ineligible Services

PNP INELIGIBLE SERVICES	
<p>COMMUNITY CENTER SERVICES</p> <ul style="list-style-type: none"> • Religious activities, such as worship, proselytizing, religious instruction, or fundraising activities that benefit a religious institution and not the community at large • Training individuals to pursue the same activities as full-time paying careers (for example, vocational, academic, or professional training) • Meetings or activities for only a brief period, or at irregular intervals 	<p>OTHER COMMUNITY SERVICES</p> <ul style="list-style-type: none"> • Advocacy or lobbying groups not directly providing health services • Cemeteries • Conferences • Day care services not included in previous table of eligible services • Irrigation solely for agricultural purposes⁶⁴ • Job counseling • Property owner associations with facilities such as roads and recreational facilities (except those facilities that could be classified as utilities or emergency facilities) • Public housing, other than low-income housing • Recreation • Religious services • Parking not in direct support of eligible facility
<p>EDUCATION</p> <ul style="list-style-type: none"> • Athletic, vocational, academic training, or similar activities • Political education • Religious education⁶⁵ 	

See Public Assistance Program and Policy Guide at 15, FP 104-009-02 (April 2017)

<https://www.fema.gov/media-library-data/1496435662672->

[d79ba9e1edb16e60b51634af00f490ae/2017_PAPPG_2.0_508_FINAL\(2\).pdf](d79ba9e1edb16e60b51634af00f490ae/2017_PAPPG_2.0_508_FINAL(2).pdf)

38. I am aware that FEMA has repeatedly denied grants to other houses of worship because the use of their disaster-damaged facilities or materials was primarily religious. Further, it is my understanding that these denials came after

extended appeals processes and were not finally decided until months or years after the disaster occurred.

39. Thus, it is my understanding that FEMA's policy categorically bars the Church from having equal access to emergency relief grants because the Church's use of its facilities is primarily religious. It is my understanding that, but for our religious use of the facilities, the Church would be eligible to apply for the grants.

40. It is further my understanding that, to be eligible to receive FEMA grants, nonprofits must apply within 30 days of the presidential disaster declaration affecting their community.

41. Thus, it is my understanding that the Church must apply for a FEMA grant by September 26, 2017, in order to be considered.

42. My Church is facing a disaster *right now* and needs to make long-term decisions *right now* about how we will recover from Hurricane Harvey. We cannot afford to wait months or years to find out that FEMA will follow its policy to deny us equal access to and equal consideration for emergency disaster relief grants.

43. In my view, FEMA's policy discriminates on the basis of the religious status of the Church's motivation and purpose for its services to the community. I think that it is discriminatory and demeaning for the government to punish the Church because of our religious status.

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

Executed on September 4, 2017.

/s/ Paul Capehart

Paul Capehart

Exhibit 1











Exhibit 2









