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(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Defendants COUNTY OF FRESNO and
7 FRESNO COUNTY IN-HOME SUPPORTIVE
8 SERVICES PUBLIC AUTHORITY

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO/OAKLAND DIVISION

12 MIKESHA MARTINEZ, et al.,
13 Plaintiffs,

14 v.

15 ARNOLD SCHWARZENEGGER,
16 Governor of the State of California; JOHN
17 A. WAGNER, Director of the California
18 Department of Social Services; DAVID
19 MAXWELL-JOLLY, Director of the
20 California Department of Health Care
21 Services; JOHN CHIANG, California State
22 Controller; FRESNO COUNTY; and
23 FRESNO COUNTY IN-HOME
24 SUPPORTIVE SERVICES PUBLIC
25 AUTHORITY,

26 Defendants.

Case No. C 09-02306 CW

**NOTICE OF MOTION AND MOTION BY
DEFENDANTS COUNTY OF FRESNO
AND FRESNO COUNTY IN-HOME
SUPPORTIVE SERVICES PUBLIC
AUTHORITY TO DISMISS PLAINTIFFS'
COMPLAINT PURSUANT TO RULE
12(b)(1) & (6) OF THE FEDERAL RULES
OF CIVIL PROCEDURE**

Date: August 6, 2009
Time: 2:00 p.m.
Courtroom: 2 (Oakland Division)
Honorable Claudia Wilken

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on August 6, 2009 at 2:00 p.m., or as soon thereafter as the
24 matter may be heard in Department 2 of the above-entitled court, located at 1301 Clay Street,
25 Oakland, CA 94612, Defendants COUNTY OF FRESNO and FRESNO COUNTY IN-HOME
26 SUPPORTIVE SERVICES PUBLIC AUTHORITY COUNTY OF TULARE (“Defendants”) will
27 and hereby do move for an Order dismissing with prejudice the third and fourth claims for relief
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1 against them, as set forth in Plaintiffs' Complaint For Declaratory and Injunctive Relief, pursuant
2 to Rule 12(b)(1) of the Federal Rules of Civil Procedure on grounds that Plaintiffs lack
3 jurisdictional standing to assert their claims. In addition, or in the alternative, Defendants will
4 and hereby do move for an Order dismissing with prejudice Plaintiffs' third and fourth causes of
5 action against them pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure
6 to state a claim upon which relief may be granted.

7 The Motion is based on this Notice of Motion, the Memorandum of Points and Authorities
8 filed concurrently herewith, the Declaration of Kevin Briggs, Defendants' Request for Judicial
9 Notice with public documents and the Declarations of Catherine E. Basham, Steve Sanchez,
10 Sanja Kovacevic and all exhibits attached thereto, any Reply submitted to an opposition of the
11 motion, on the records and files on this matter, and upon all such oral and documentary evidence
12 which may be presented at the hearing on this Motion.

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Dated: June 16, 2009

MCCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By: /s/ Michael G. Woods
Michael G. Woods
Timothy J. Buchanan
Attorneys for Defendant
COUNTY OF FRESNO and FRESNO
COUNTY IN-HOME SUPPORTIVE
SERVICES PUBLIC AUTHORITY

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