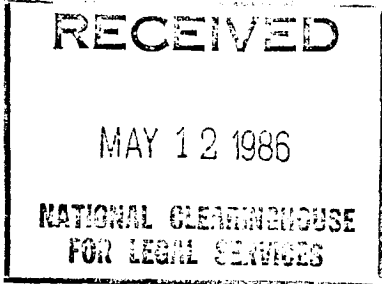


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ROBERT D. NEWMAN
MELINDA R. BIRD
RICHARD A. ROTHSCHILD
3535 West Sixth Street
Los Angeles, California 90020
Telephone: (213) 487-7211

GARY L. BLASI
MICHAEL I. BODAKEN
CAROL DAMIEN
BYRON J. GROSS
PATRICIA L. NAGLER
LEGAL AID FOUNDATION OF LOS ANGELES
1636 West Eighth Street
Los Angeles, California 90017
Telephone: (213) 383-1400

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Attorneys for Plaintiff
(continued on following page)

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RACHEL HANSEN, GARY FROST)
CAROLYN COMBS, SKYLA HICKS,)
SHERRY L. MOORE, DEBORAH)
CROSS, BARBARA MIKUCKI,)
BARBARA DAVILA, on behalf of)
themselves and all other)
similarly situated homeless)
families,)

Plaintiffs and)
Petitioners,)

vs.)

LINDA MC MAHON, Director,)
California Department of)
Social Services, and)
CALIFORNIA DEPARTMENT OF)
SOCIAL SERVICES,)

Defendants and)
Respondents.)

CASE NO. **CA000974**
CLASS ACTION

CLASS ACTION COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
PETITION FOR WRIT OF
MANDATE

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YVONNE MARIAJIMENEZ
SAN FERNANDO VALLEY NEIGHBORHOOD
LEGAL SERVICES, INC.
13327 Van Nuys Boulevard
Pacoima, California 91331
Telephone: (818) 896-5211

COLLEEN FAHEY FEARN
LEGAL AID SOCIETY OF SAN DIEGO
110 South Euclid Avenue
San Diego, California 92114
Telephone: (619) 262-5557

KATHERINE E. MEISS
EDWARD BARNES
LEGAL AID SOCIETY OF ALAMEDA COUNTY
2357 San Pablo Avenue
Oakland, California 94612
Telephone: (415) 465-4376

TAMARA DAHN
LEGAL SERVICES OF NORTHERN CALIFORNIA
712 - 12th Street
Sacramento, California 95814
Telephone: (916) 444-6760

ANITA EVANS
JOEL HARTER
THOMAS PULLIAM
SAN FRANCISCO NEIGHBORHOOD
LEGAL ASSISTANCE FOUNDATION
49 Powell Street
San Francisco, California 94102

DEBORAH DORMAN
ABBY LASSEN
KIRK AH TYE
CHANNEL COUNTIES LEGAL SERVICES
735 State Street, Suite 201
Balboa Building
Santa Barbara, California 93101
Telephone: (805) 963-5981

ELIZABETH ARNOLD
CONTRA COSTA LEGAL SERVICES FOUNDATION
1017 MacDonalD Avenue
P.O. Box 2289
Richmond, California 94802
Telephone: (415) 233-9954

NANCY MINTIE
INNER CITY LAW CENTER
P.O. Box 21471
Los Angeles, California 90021
Telephone: (213) 629-3478

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3 PRELIMINARY STATEMENT

4 1. This is a class action on behalf of children in
5 California, and their parents, in immediate need of
6 emergency shelter services and other child welfare services
7 because they are homeless or threatened with imminent
8 homelessness. The ranks of this class grow day by day. For
9 reasons beyond their control, the children in this class are
10 not sure where they will sleep tonight, whether they will
11 have a meal, whether they will be permitted to attend
12 school. Existing social service programs and agencies do
13 not or cannot address their desperate needs. The fortunate
14 ones temporarily escape sleeping in cars and parks by
15 obtaining refuge in scarce shelters for short periods, but
16 the threat of homelessness continues.

17 2. The defendant/respondent State Department of
18 Social Services [hereafter "defendant"] is mandated by
19 statute to provide services to homeless families with
20 children who are in an emergency situation. Defendant has
21 adopted a policy which violates this duty by restricting
22 shelter benefits only to children who have been removed from
23 their families. The effect of this policy is to deny needed
24 emergency shelter and other child welfare services to
25 children who remain with their families. This restriction
26 on emergency shelter benefits violates provisions of both
27 the Welfare and Institutions Code and the California Consti-
28 tution.

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PARTIES

Plaintiffs

3. Plaintiffs Rachel Hansen, Barbara Mikucki, Deborah Cross, Carolyn Combs, Sherry Moore, Gary Frost, Barbara Davila and Skyla Hicks are each parents caring for minor children residing in the State of California. They are now, or imminently will be, in need of emergency shelter services for themselves and their minor children. All of them have been rendered homeless, except for temporary respites in the homes of others, or charity shelters. All of them have spent nights with their children sleeping on the sidewalks, in their cars, or in crowded, unfit conditions. All of them have taken every reasonable step to provide as much security and comfort for their children as their means allow. All of them have sought assistance in seeking shelter from their county welfare department, but have received nothing other than referrals to other agencies.

Defendants

4. Defendant California Department of Social Services ("DSS") is the single state agency authorized to supervise the administration of public social service programs, including the emergency shelter program, and is responsible for securing full compliance with the applicable provisions of law.

1 substantially identical to the claims of the class as a
2 whole, and they will fairly and adequately represent the
3 interests of the class.
4

5 9. Defendants have acted on grounds generally
6 applicable to the class by failing to provide emergency
7 shelter or other child welfare services to homeless children
8 unless they have been removed from their families. Only by
9 adjudication of this controversy as a class action can
10 relief be granted so as to make the members of the class
11 whole, and to avoid a multiplicity of lawsuits.
12

13 FACTUAL ALLEGATIONS

14 Statutory Scheme

15
16 10. Under Welf. and Inst. Code Section 16500, et seq.,
17 defendant DSS has a duty to provide child welfare services
18 to protect and to promote the welfare of all children,
19 including homeless children, and to prevent unnecessary
20 family separation and break-up. Welf. and Inst. Code
21 Section 16501(a)(c). This includes a duty to provide
22 emergency shelter in emergency situations. Welf. and Inst.
23 Code Section 16504.5.
24

25 11. Defendant DSS has adopted a policy and state
26 regulations which limit emergency shelter only to children
27 who have been removed from their family. California DSS
28

1 Manual of Policies and Procedures Sections 30-002(z)(3);
2 30-158; 45-401.1 and 45-402.3.

3
4 12. The effect of this policy and regulations is to
5 deny emergency shelter to homeless families with children,
6 or to compel separation of the child from his or her parents
7 in order to obtain shelter.

8
9 Harm to Plaintiffs

10 13. RACHEL HANSEN is forty-five years old and lives
11 with two teenage children. She and the children are now
12 staying at the Valley Interfaith Shelter in Van Nuys,
13 California, after being forced to sleep in their car for
14 several nights. Until last year, Mrs. Hansen, her husband,
15 and four children lived in a well-furnished four bedroom
16 house in Anaheim. She was employed running a retirement
17 home. Then, her husband left her. She was evicted from her
18 house the next month. Mrs. Hansen applied for AFDC, but was
19 told that no emergency funds were available. From August
20 1985 to February 1986 she worked as a social service
21 director at a convalescent home. When she lost her job, she
22 and two of her children had to live in a camper shell, and,
23 later, had to sleep in their car. She has tried to keep her
24 children in school, but the stress has caused them
25 difficulties with their studies.

26
27 14. BARBARA MIKUCKI, thirty-five years old, has five
28 children, and is a certified nursing assistant. For a year,

1 she and her children lived in a car after she became
2 disabled, could no longer work, and was evicted from her
3 home. She and her children moved several times. She has
4 not secured more permanent shelter because she has been
5 unable to afford first and last month's rent. Even while
6 being forced to live, as she puts it, like "sardines in a
7 can," she did her best, washing her children and sending
8 them to school. She is now at the Valley Interfaith
9 Shelter, but can stay there for no more than sixty days.

10
11 15. SHERRY L. MOORE spent a cold night sleeping in
12 front of a church with her eight year old son before finding
13 refuge in a temporary shelter. She had been working as a
14 carpenter in Chicago when the plant she worked in burned
15 down and she lost her job. Her apartment was burglarized
16 twice within a few months. She and her son moved to Los
17 Angeles seeking a fresh start. Her small savings, though,
18 were quickly exhausted, and she became homeless. When she
19 applied for AFDC and asked for immediate help because she
20 would have to leave the shelter, she was told there was
21 nothing that could be done for her.

22
23 16. DEBORAH CROSS is twenty-four years old and has two
24 young children. When she separated from her husband, she
25 had to apply for AFDC. In February, she was evicted. She
26 called numerous places in search of housing. If Ms. Cross
27 could obtain the funds to pay the initial security deposit,
28 she would have a chance to find a place to live.

1 17. GARY FROST is a former truck driver who lives in
2 San Diego County with three daughters aged one, two and
3 three years old. He and his family moved from Indiana in
4 January, because of the depressed job market there. Soon,
5 however, their savings were depleted. In February 1986, his
6 wife left him and the children. During February and March
7 1986, Mr. Frost and the three infants lived in several
8 different emergency shelters. Mr. Frost had to have the
9 children placed in a foster home for one week in February
10 while he lived in a shelter that only housed single males;
11 he visited them everyday. He has applied for AFDC but was
12 told that a shelter was not an appropriate address. He has
13 sought emergency shelter but was told they could not take a
14 male with children. He applied for subsidized housing but
15 was told the waiting list was two years with five thousand
16 families on it. In the Salvation Army shelter where he was
17 permitted to stay until early March, he used Lysol to clean
18 the area for his children.

19
20 18. CAROLYN COMBS is forty-five years old and staying
21 at a San Fernando Valley shelter with three sons. In
22 November 1985 they were evicted from an apartment. They
23 later stayed in motels, and when their funds were depleted,
24 they stayed in an abandoned truck trailer. Ms. Combs went
25 to the welfare department for assistance in locating housing
26 and was told she would have to make the best of it herself.

1 19. BARBARA DAVILA, age 49, had worked for the U.S.
2 postal service for thirteen years until 1983. Her daughter
3 was killed in 1983, and she began caring for the daughter's
4 two young children as well as her own two sons. She had to
5 leave work because of constant worrying about the welfare of
6 her children. She applied for AFDC to tide herself over.
7 Later she received a payment from the Postal Service
8 representing a refund on her retirement account. As a
9 result, the Los Angeles County Department of Public Social
10 Services terminated her AFDC and erroneously told her she
11 could not receive benefits for a year. As a consequence,
12 she was evicted and lost all of her furniture. They had to
13 sleep in her car. Later, they moved in with some relatives,
14 with fourteen people in a two bedroom house. They stayed
15 there for six weeks, and stayed, for one or two weeks at a
16 time, with other friends or relatives. She has gone to the
17 welfare department for emergency assistance, but was
18 repeatedly told that there was nothing available to help
19 her. She has looked for work with the postal service and
20 other delivery companies. She had a temporary job at a
21 department store. Her children and grandchildren have
22 developed emotional problems and difficulties in school.

23
24 20. SKYLA HICKS is staying with her five year old
25 daughter at the Salvation Army's temporary shelter in Santa
26 Barbara. In 1983, after being evicted, Ms. Hicks had to
27 place her child in a foster home for eleven months while she
28 looked for a place to live. The experience left the

1 daughter with emotional and physical problems. She applied
2 for AFDC, but was not given any emergency assistance. She
3 was not told that she could be eligible for immediate need
4 funds. Ms. Hicks moved to different locations for short
5 periods of time as her funds allowed. For a time she worked
6 at minimum wage in a pet store and a dental office.
7

8 FIRST CAUSE OF ACTION

9 Injunctive Relief for Violation of Welf.
10 and Inst. Code section 16500, et seq.
11

12 21. Plaintiffs reallege and incorporate paragraphs 1
13 through 20 as if set forth in full herein.
14

15 22. As a result of their policies and regulations
16 purporting to implement Welf. and Inst. Code section 16500,
17 et seq., defendants, and each of them, deny emergency
18 shelter benefits and services to homeless families. In
19 doing so, defendants violate Welf. and Inst. Code section
20 16500 et seq. because they do not provide shelter care in
21 emergency situations, do not protect the welfare of homeless
22 children, do not prevent the unnecessary separation of
23 children from their families, and have not avoided, when
24 possible, the need for out of home placement.
25

26 23. Unless the Court issues preliminary and permanent
27 injunctive relief, defendants will continue to deny
28

1 emergency shelter benefits and services to homeless families
2 in violation of Welf. and Inst. Code section 16500 et seq.
3

4 SECOND CAUSE OF ACTION

5 Writ of Mandate against Violation
6 of Welf. and Institutions Code section 16500 et seq.
7

8 24. Plaintiffs reallege and incorporate paragraphs 1
9 through 23 as if set forth in full herein.
10

11 25. Defendants have a clear and mandatory duty under
12 Welfare and Institutions Code section 16500, et seq., to
13 establish and support child welfare services to protect and
14 promote the welfare of homeless children by providing
15 emergency shelter and other services. At all times herein
16 mentioned, defendants have had the ability to comply with
17 this obligation. Notwithstanding such ability, defendants
18 have failed and refused to perform such duty.
19

20 THIRD CAUSE OF ACTION

21 Injunctive Relief for Violation of California
22 and United States Constitutions
23

24 26. Plaintiffs reallege and incorporate paragraphs 1
25 through 25 as if set forth in full herein.
26

27 27. Defendants' denial of emergency shelter to
28 homeless children who remain with their families, while

1 providing shelter only to children who have been removed
2 from their families, imposes an unconstitutional condition
3 upon the receipt of a statutory right, violates the rights
4 of equal protection to members of the class, and
5 unreasonably burdens plaintiffs' rights to privacy and
6 association, all in violation of the United States and
7 California Constitutions.

8
9 28. Unless the Court issues preliminary and permanent
10 injunctive relief, defendants will continue to deny
11 emergency shelter benefits and services to homeless families
12 in violation of the United States and California
13 Constitutions.

14
15 FOURTH CAUSE OF ACTION

16 Writ of Mandate Against Violation of
17 United States and California Constitutions
18

19 29. Plaintiffs reallege and incorporate paragraphs 1
20 through 28 as if set forth in full herein.
21

22 30. The United States and California Constitutions
23 impose clear mandates upon the state prohibiting the
24 imposition of unconstitutional conditions upon the securing
25 of a statutory right, the denial of equal protection of the
26 law, and the denial of the rights of privacy and
27 association. Defendants have a clear, present, mandatory
28 duty to implement their statutory responsibilities through

1 programs that do not violate these fundamental
2 constitutional guarantees.
3

4 31. At all times herein mentioned, defendants have had
5 the ability to comply with this mandatory duty in the
6 administration and operation of child welfare services
7 programs. Notwithstanding such ability, defendants have
8 failed and refused to perform such duty.
9

10 FIFTH CAUSE OF ACTION

11 Declaratory Relief for Violation of Welfare and
12 Institutions Code section 16500 et seq., and the
13 United States and California Constitutions
14

15 32. Plaintiffs reallege and incorporate paragraphs 1
16 through 31 as if set forth in full herein.
17

18 33. There is an actual controversy between plaintiffs
19 and defendants relating to the legal rights and duties of
20 said parties, in that plaintiffs claim and contend that
21 defendants' actions described above at paragraphs 1 through
22 31 violate the aforesaid provisions of law. Defendants
23 contend in all respects to the contrary. Plaintiffs desire,
24 and are entitled to, a judicial declaration of the rights
25 and duties of the parties with respect to the controversy
26 described herein.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs/petitioners pray that this Court:

1. Certify that this case may proceed as a class action;

2. Issue a preliminary and permanent injunction enjoining defendants, and each of them, from denying emergency shelter benefits and services to homeless families with children regardless of whether the child has been removed from the family;

3. Issue a peremptory writ of mandate pursuant to Code of Civil Procedure section 1085, commanding defendants to provide emergency shelter benefits and services to homeless children and their parents regardless of whether the child has been removed from the family;

4. Enter a declaratory judgment that defendants have the duty under the Welfare and Institutions Code and the California and United States Constitutions to provide emergency shelter benefits to homeless families, and to make changes in the state plan and emergency shelter regulations consistent with that judgment;

5. Grant plaintiffs the cost of suit and reasonable

1 attorneys' fees;

2 6. Order such other and further relief as this Court
3 may deem just and proper.
4

5 Dated: April 17, 1986

6 Respectfully submitted,

7 ROBERT D. NEWMAN
8 MELINDA R. BIRD
9 RICHARD A. ROTHSCHILD
10 GARY L. BLASI
11 MICHAEL BODAKEN
12 CAROLE DAMIEN
13 BYRON J. GROSS
14 BRUCE IWASAKI
15 PATRICIA NAGLER
16 COLLEEN FAHEY FEARN
17 KATHERINE E. MEISS
18 EDWARD BARNES
19 TAMARA DAHN

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25
26
27
28
By Robert D. Newman
ROBERT D. NEWMAN
Attorneys for plaintiffs/
petitioners