

1 **ROBERT A. RYAN, JR., County Counsel**  
2 **MICHELE BACH, Supervising Deputy**  
3 [State Bar No. 88948]  
4 **RICK HEYER, Deputy**  
5 [State Bar No. 216150]  
6 **COUNTY OF SACRAMENTO**  
7 **700 H Street, Suite 2650**  
8 **Sacramento, CA 95814**  
9 **Telephone: (916) 874-5540**  
10 **Facsimile: (916) 874-8207**  
11 **E-mail: bachm@saccounty.net**  
12 **File No.: 128.10A**

13 **Attorneys for Defendants**  
14 **County of Sacramento, et al.**

15 **IN THE UNITED STATES DISTRICT COURT FOR**  
16 **THE EASTERN DISTRICT OF CALIFORNIA**

17 **LESLIE NAPPER, et al.,**  
18 **Plaintiffs,**

19 **vs.**

20 **COUNTY OF SACRAMENTO, et al.,**  
21 **Defendants.**

**Case No. 2:10-CV-01119-JAM-EFB**

**ANSWER TO CLASS ACTION  
COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF**

**Date: N/A**  
**Time: N/A**  
**Place: Courtroom 6, 14<sup>th</sup> Floor**  
**Judge: Hon. John A. Mendez**

22 Defendants County of Sacramento (hereinafter "County"), Board of Supervisors of  
23 the County of Sacramento, Roger Dickinson, Susan Peters, Roberta MacGlashan, Don  
24 Nottoli, Sacramento County Department of Behavioral Health Services, Ann Edwards-  
25 Buckley and MaryAnn Bennett (hereinafter "Defendants") answer the Class Action  
26 Complaint for Injunctive and Declaratory Relief in this matter as follows:

- 27 1. Answering Paragraphs 1-5, Defendants deny each and every allegation  
28 thereof.
2. Answering Paragraph 6, Defendants admit that the County experienced a  
budget shortfall for fiscal year 2010-11 of approximately \$181 million and that mental  
health services were subject to budget reductions. Defendants further admit that as a civil

1 service county, the County is prohibited from contracting for services that are ordinarily  
2 and customarily provided by civil service employees when County civil service  
3 employees are being laid off. Except as expressly admitted, Defendants deny each and  
4 every remaining allegation of Paragraph 6.

5 3. Answering Paragraph 7, Defendants allege that the cited statutes speak for  
6 themselves. Except as expressly admitted, Defendants deny each and every remaining  
7 allegation of Paragraph 7.

8 4. Answering Paragraphs 8-10, Defendants deny each and every allegation  
9 thereof.

10 5. Answering Paragraphs 11-13, Defendants deny each and every allegation  
11 thereof.

12 6. Answering Paragraph 14, Defendants admit that they operate and perform  
13 their official duties in Sacramento County. Except as expressly admitted, Defendants  
14 deny each and every remaining allegation thereof.

15 7. Answering Paragraphs 15-19, Defendants are without sufficient  
16 information or belief to answer the allegations of Paragraphs 15-19 and, basing their  
17 denial thereon, deny each and every allegation thereof.

18 8. Answering Paragraph 20, Defendants deny that there is a Department of  
19 Behavioral Health Services. Defendants affirmatively allege that there is a Mental Health  
20 Division within the Department of Health and Human Services (hereinafter "DHHS").  
21 Defendants admit that the County is a local government and receive state and federal  
22 funding, and that DHHS has promulgated policies and procedures relating to the Mental  
23 Health Plan. Defendants further admit that the Mental Health Plan defines the County's  
24 obligation to provide mental health services to the County's Medi-Cal recipients and that  
25 the County receives federal and state funding for those services. Except as expressly  
26 admitted, Defendants deny each and every remaining allegation of Paragraph 20.

27 9. Answering Paragraph 21, Defendants admit that the Board of Supervisors is  
28 the governing body of the County. Except as expressly admitted, Defendants deny each

1 and every remaining allegation of Paragraph 21.

2 10. Answering Paragraph 22, Defendants admit the allegations thereof.

3 11. Answering Paragraph 23, Defendants admit that DHHS is a department of  
4 the County and is responsible for providing services to adults and seniors, including  
5 mental health services, that the County receives federal and state funds which are  
6 disbursed to DHHS for miscellaneous services and programs, that its mission statement is  
7 as partially quoted. Except as expressly admitted, Defendants deny each and every  
8 remaining allegation of Paragraph 23.

9 12. Answering Paragraph 24, Defendants admit that Ann Edwards-Buckley is  
10 the current Director of DHHS and is responsible for the services and programs specified  
11 in DHHS' establishing ordinance. Defendants admit that she is sued only in her official  
12 capacity. Except as expressly admitted, Defendants deny each and every remaining  
13 allegation of Paragraph 24.

14 13. Answering Paragraph 25, Defendants admit that MaryAnn Bennett is the  
15 current Mental Health Director in DHHS and that she is responsible for the oversight and  
16 administration of mental health services provided via the Mental Health Division of  
17 DHHS. Defendants admit that she is sued only in her official capacity. Except as  
18 expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
19 25.

20 14. Answering Paragraphs 26-31, Defendants deny each and every allegation  
21 thereof.

22 15. Answering Paragraphs 32-41, Defendants allege that the statutes and  
23 regulations cited speak for themselves. Except as expressly admitted, Defendants deny  
24 each and every remaining allegation of Paragraphs 32-41.

25 16. Answering Paragraph 42, Defendants allege that the cited regulation speaks  
26 for itself. With respect to the remaining allegations of Paragraph 42, Defendants are  
27 without sufficient information or belief to answer the allegations thereof and, basing their  
28 denial thereon, deny each and every allegation thereof.

1           17. Answering Paragraph 43, Defendants allege that the regulations speak for  
2 themselves. Except as expressly admitted, Defendants deny each and every remaining  
3 allegation of Paragraph 43.

4           18. Answering Paragraph 44, Defendants allege that Defendant Sacramento  
5 County is the designated Mental Health Plan which has an obligation to provide specialty  
6 mental health services in accordance with state and federal law. Defendants are without  
7 sufficient information or belief to answer the remaining allegations of Paragraph 43 and,  
8 basing their denial thereon, deny each and every allegation thereof.

9           19. Answering Paragraph 45, Defendants admit the allegations thereof.

10           20. Answering Paragraph 46, Defendants admit that it utilizes a network of  
11 contract providers to provide some, but not all, of mental health services. Defendants  
12 further admit that many of the private providers of mental health services are non-profit  
13 community based organizations. Except as expressly admitted, Defendants deny each  
14 and every remaining allegation of Paragraph 46.

15           21. Answering Paragraph 47, Defendants admit that it operates an Access  
16 Team which acts as the gate-keeper for Medi-Cal clients, that the Access Team is staffed  
17 by staff that specialize in services to adults and children, that the Access Team accepts  
18 requests for service, assesses the client's level of need and authorizes services based on  
19 that determination and eligibility, makes referrals to county and contract providers and  
20 determines re-authorizations of service. Except as expressly admitted, Defendants deny  
21 each and every remaining allegation of Paragraph 47.

22           22. Answering Paragraph 48, Defendant DHHS has implemented an Adult  
23 Mental Health Services Policy and Procedure Manual that governs access to county Adult  
24 Mental Health Services. Defendants allege that the Manual speaks for itself. Except as  
25 expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
26 48.

27           23. Answering Paragraph 49, Defendants deny each and every allegation  
28 thereof.

1           24.     Answering Paragraph 50, Defendants allege that the cited report speaks for  
2     itself. Except as expressly admitted, Defendants deny each and every remaining  
3     allegation of Paragraph 50.

4           25.     Answering Paragraph 51, Defendants allege that a number of factors led to  
5     the need for rolling closures of the Mental Health Treatment Center. Except as expressly  
6     admitted, Defendants deny each and every remaining allegation of Paragraph 51.

7           26.     Answering Paragraph 52, Defendants admit that there were budget  
8     reductions to mental health services in 2009. Defendants further allege that they are  
9     without sufficient information or belief with respect to the last sentence of Paragraph 52  
10    and, basing their denial thereon, deny each and every allegation thereof. Except as  
11    expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
12    52.

13          27.     Answering Paragraph 53, Defendants admit that Defendant Bennett made  
14    the quoted statement. Defendants also admit that reductions occurred in mental health  
15    funding for contracted agencies in 2009. Except as expressly admitted, Defendants deny  
16    each and every remaining allegation of Paragraph 53.

17          28.     Answering Paragraph 54, Defendants allege that the cited report speaks for  
18    itself. Except as expressly admitted, Defendants deny each and every remaining  
19    allegation of Paragraph 54.

20          29.     Answering Paragraph 55, Defendants admit that beds in acute and subacute  
21    facilities that are necessary to provide the appropriate level of mental health services for  
22    gravely mentally ill residents have cost the County millions of dollars. Except as  
23    expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
24    55.

25          30.     Answering Paragraph 56, Defendants deny that the County's Adult Mental  
26    Health Service Directory identifies the RSTs as the only outpatient source of  
27    comprehensive mental health and medication services for adults in the County. Except as  
28    expressly denied, Defendants admit the remaining allegations of Paragraph 56.

1           31.    Answering Paragraph 57, Defendants admit the allegations thereof.

2           32.    Answering Paragraph 58, Defendants deny that the four RSTs at present  
3 serve 3600 clients per year. Except as expressly denied, Defendants admit the remaining  
4 allegations of Paragraph 58.

5           33.    Answering Paragraph 59, Defendants admit the allegations thereof.

6           34.    Answering Paragraph 60, Defendants deny the cited staffing ratio for Level  
7 II care. Defendants are without sufficient information or belief to answer the remaining  
8 allegations and, basing their denial thereon, deny each and every allegation thereof.

9           35.    Answering Paragraph 61, Defendants deny each and every allegation  
10 thereof.

11          36.    Answering Paragraph 62, Defendants admit that TCORE is an MHSA-  
12 approved workplan that consists of a County-operated component and a contractor-  
13 provider component. Defendants further admit that it focuses on clients who are  
14 discharged from acute treatment settings or at risk of entering acute care settings who are  
15 not linked to other mental health services. Except as expressly admitted, Defendants  
16 deny each and every remaining allegation of Paragraph 62.

17          37.    Answering Paragraph 63, Defendants admit that TCORE serves adult  
18 Medi-Cal recipients. Except as expressly admitted, Defendants deny each and every  
19 remaining allegation of Paragraph 63.

20          38.    Answering Paragraph 64, Defendants admit the allegations thereof.

21          39.    Answering Paragraph 65, Defendants allege that the report speaks for itself.  
22 Defendants further allege that the service capacity of the Wellness and Recovery Centers  
23 includes clients receiving self help and peer services as well as clients who receive Level  
24 II MHP mental health/medication support services. Except as expressly admitted,  
25 Defendants deny each and every remaining allegation of Paragraph 65.

26          40.    Answering Paragraph 66, Defendants admit that the listed programs provide  
27 outpatient mental health services to County mental health patients. Except as  
28 expressly admitted, Defendants deny each and every remaining allegation of Paragraph 66.

1           41.     Answering Paragraph 67, Defendants admit that Defendant Bennett issued  
2 a March 16, 2010, memorandum and further allege that the memorandum speaks for  
3 itself. Except as expressly admitted, Defendants deny each and every remaining  
4 allegation of Paragraph 67.

5           42.     Answering Paragraph 68, Defendants admit the allegations thereof.

6           43.     Answering Paragraph 69, Defendants allege that the referenced \$2.9 million  
7 is for repayment of an interfund transfer. Defendant alleges that the referenced document  
8 speaks for itself and admits that it was distributed at a meeting on April 1, 2010. Except  
9 as expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
10 69.

11           44.     Answering Paragraph 70, Defendants admit Defendant Bennett issued a  
12 document relating to the County's System Redesign Plan and further alleges that the  
13 document speaks for itself. Defendants further allege that the plan referenced in said  
14 document was a draft plan that had not been submitted, discussed, considered or  
15 approved by the Board of Supervisors. Defendants further allege that the plan that was  
16 discussed at that meeting was subsequently modified, and the public was advised that all  
17 consumers would be transferred to Sacramento Wellness Centers. Except as expressly  
18 admitted, Defendants deny each and every remaining allegation of Paragraph 70.

19           45.     Answering Paragraph 71, Defendants admit that contract providers were  
20 advised of the various plans that were being discussed and considered by administrative  
21 staff, including a plan in which RST clients were transitioned to Sacramento Wellness  
22 Centers. Defendants further allege that contract providers have most recently been  
23 advised that the RSTs will receive full funding through July, that funding for the RSTs  
24 will be phased out as clients are transitioned to Sacramento Wellness Centers, that the  
25 HRC TCORE will continue to receive funding and that the County will assume the  
26 medication support functions that the Consumer Self-Help Wellness and Recovery  
27 Centers began performing in 2009-10, and that one of the Wellness and Recovery Center  
28 sites will be closed. Except as expressly admitted, Defendants deny each and every

1 remaining allegation of Paragraph 71.

2 46. Answering Paragraph 72, Defendants admit that a meeting was held on  
3 April 26, 2010, to discuss one version of the proposed plan to transfer clients to  
4 Sacramento Wellness Centers. Defendants further allege that specific details of any plan  
5 were still being developed and could not be implemented until such time as the plan was  
6 submitted, considered and approved by the Board of Supervisors. Except as expressly  
7 admitted, Defendants deny each and every remaining allegation of Paragraph 72.

8 47. Answering Paragraph 73, Defendants deny the allegations thereof.

9 48. Answering Paragraph 74, Defendants deny that mental health clients were  
10 not notified that the Adult Outpatient Mental Health System would be restructured if the  
11 Board of Supervisors approved a redesign that, as of the date of filing of the Class Action  
12 Complaint, has not yet been submitted to, considered by, or authorized by the Board of  
13 Supervisors. Except as expressly admitted, Defendants deny each and every remaining  
14 allegation of Paragraph 74.

15 49. Answering Paragraph 75, Defendants allege that the Policy Manual and  
16 RST contracts speak for themselves. Defendants admit that on entry in the Adult  
17 Outpatient Mental Health Services System, an individualized determination of the mental  
18 health client was made. Except as expressly admitted, Defendants deny each and every  
19 remaining allegation thereof.

20 50. Answering Paragraph 76, Defendants deny the allegations thereof, but  
21 affirmatively allege that under the recommended plan submitted to the Board of  
22 Supervisors and approved by the Board of Supervisors during budget hearings, there will  
23 be a phased transfer of consumer clients from the RSTs to the Sacramento Wellness  
24 Centers, commencing in August 2010 and ending November 1, 2010.

25 51. Answering Paragraph 77, Defendants deny each and every allegation  
26 thereof.

27 52. Answering Paragraph 78, Defendants allege that the referenced manual  
28 speaks for itself. Except as expressly admitted, Defendants deny each and every



1 remaining allegation of Paragraph 78.

2 53. Answering Paragraph 79, Defendants deny each and every allegation  
3 thereof.

4 54. Answering Paragraph 80, Defendants deny that they are terminating or  
5 reducing mental health services, and further deny that class members currently receiving  
6 mental health services from the RSTs or other contracted providers will not be notified if  
7 those class members are transferred to Sacramento Wellness Centers. Defendants deny  
8 each and every remaining allegation of Paragraph 80.

9 55. Answering Paragraph 81, Defendants admit that the specified programs are  
10 part of the Adult Outpatient Mental Health Services system, have delivered effective  
11 mental health services that have been instrumental for some clients in avoiding  
12 institutionalization. Except as expressly admitted, Defendants deny each and every  
13 remaining allegation of Paragraph 81.

14 56. Answering Paragraph 82, Defendants deny each and every allegation  
15 thereof.

16 57. Answering Paragraphs 83-87, Defendants lack sufficient information or  
17 belief to answer the allegations thereof and basing their denial thereon, deny each and  
18 every allegation therein.

19 58. Answering Paragraph 88, Defendants deny the closure of the TCORE  
20 workplan. With respect to the remaining allegations of Paragraph 88, Defendants lack  
21 sufficient information or belief to answer the allegations thereof and basing their denial  
22 thereon, deny each and every allegation therein.

23 59. Answering Paragraph 89, Defendants lack sufficient information or belief  
24 to answer the allegations thereof and basing their denial thereon, deny each and every  
25 allegation therein.

26 60. Answering Paragraph 90, Defendants admit that institutionalization is more  
27 costly than outpatient mental health services. Except as expressly admitted, Defendants  
28 deny each and every remaining allegation of Paragraph 90.

1           61.    Answering Paragraph 91, Defendants deny each and every allegation  
2 thereof.

3           62.    Answering Paragraphs 92-96, Defendants deny each and every allegation  
4 thereof.

5           63.    Answering Paragraph 97, Defendants reallege and incorporate herein by  
6 reference each and every response made to the paragraphs set forth previously.

7           64.    Answering Paragraph 98, Defendants lack sufficient information or belief  
8 to answer the allegations thereof and basing their denial thereon, deny each and every  
9 allegation therein.

10          65.    Answering Paragraph 99, Defendants admit that the County is a public  
11 entity within the meaning of Title II of the ADA and that the Department of Health and  
12 Human Services is a department within the County. Except as expressly admitted,  
13 Defendants deny each and every remaining allegation of Paragraph 99.

14          66.    Answering Paragraphs 100-101, Defendants allege that Title II of the ADA  
15 speaks for itself. Except as expressly admitted, Defendants deny each and every  
16 remaining allegation of Paragraphs 100-101.

17          67.    Answering Paragraph 102, Defendants allege that regulations implementing  
18 Title II of the ADA speak for themselves. Except as expressly admitted, Defendants  
19 deny each and every remaining allegation of Paragraph 102.

20          68.    Answering Paragraph 103, Defendants allege that the Supreme Court  
21 decision in *Olmstead v. L.C. ex rel Zimring* 527 U.S. 581 (1999) speaks for itself. Except  
22 as expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
23 103.

24          69.    Answering Paragraphs 104-106, Defendants allege that regulations  
25 implementing the ADA speak for themselves. Except as expressly admitted, Defendants  
26 deny each and every remaining allegation of Paragraphs 104-106.

27          70.    Answering Paragraph 107, Defendants allege that the ADA speaks for  
28 itself. Except as expressly admitted, Defendants deny each and every allegation thereof.

1           71.    Answering Paragraph 108, Defendants deny each and every allegation  
2 thereof.

3           72.    Answering Paragraph 109, Defendants reallege and incorporate herein by  
4 reference each and every response made to the paragraphs set forth previously.

5           73.    Answering Paragraph 110, Defendants allege that Section 504 of the  
6 Rehabilitation Act speaks for itself. Except as expressly admitted, Defendants deny each  
7 and every remaining allegation of Paragraph 110.

8           74.    Answering Paragraphs 111-112, Defendants allege that Section 504's  
9 regulations speak for themselves. Except as expressly admitted, Defendants deny each  
10 and every remaining allegation of Paragraphs 111-112.

11           75.    Answering Paragraph 113, Defendants lack sufficient information or belief  
12 to answer the allegations thereof and basing their denial thereon, deny each and every  
13 allegation therein.

14           76.    Answering Paragraph 114, Defendants allege that Section 504's regulations  
15 speak for themselves. Except as expressly admitted, Defendants deny each and every  
16 remaining allegation of Paragraph 114.

17           77.    Answering Paragraph 115, Defendants deny each and every allegation  
18 thereof.

19           78.    Answering Paragraph 116, Defendants reallege and incorporate herein by  
20 reference each and every response made to the paragraphs set forth previously.

21           79.    Answering Paragraph 117, Defendants allege that the Medicaid regulations  
22 speak for themselves. Except as expressly admitted, Defendants deny each and every  
23 remaining allegation of Paragraph 117.

24           80.    Answering Paragraphs 118-119, Defendants deny each and every allegation  
25 thereof.

26           81.    Answering Paragraph 120, Defendants reallege and incorporate herein by  
27 reference each and every response made to the paragraphs set forth previously.

28           82.    Answering Paragraphs 121-122, Defendants allege that the Medicaid Act

1 and federal regulations speak for themselves. Except as expressly admitted, Defendants  
2 deny each and every remaining allegation of Paragraphs 121-122.

3 83. Answering Paragraph 123, Defendants admit the allegations thereof.

4 84. Answering Paragraph 124, Defendants admit that Medi-Cal recipients in  
5 one county must be provided the same menu of Medicaid benefits as in other counties.  
6 Defendants further allege that the number and type of services provided are based on  
7 medical necessity and that the manner in which such services are provided is different in  
8 each county. Except as expressly admitted, Defendants deny each and every remaining  
9 allegation of Paragraph 124.

10 85. Answering Paragraphs 125-126, Defendants deny each and every allegation  
11 thereof.

12 86. Answering Paragraph 127, Defendants reallege and incorporate herein by  
13 reference each and every response made to the paragraphs set forth previously.

14 87. Answering Paragraph 128, Defendants allege that Medicaid Act speaks for  
15 itself. Except as expressly admitted, Defendants deny each and every remaining  
16 allegation of Paragraph 128.

17 88. Answering Paragraphs 129-130, Defendants deny each and every allegation  
18 thereof.

19 89. Answering Paragraph 131, Defendants reallege and incorporate herein by  
20 reference each and every response made to the paragraphs set forth previously.

21 90. Answering Paragraphs 132-139, Defendants deny each and every allegation  
22 thereof.

23 91. Answering Paragraph 140, Defendants reallege and incorporate herein by  
24 reference each and every response made to the paragraphs set forth previously.

25 92. Answering Paragraphs 141-143, Defendants allege that the Medicaid Act  
26 and regulations speak for themselves. Except as expressly admitted, Defendants deny  
27 each and every remaining allegation of Paragraphs 141-143.

28 93. Answering Paragraph 144, Defendants allege that the California regulations

1 relating to Medi-Cal speak for themselves. Except as expressly admitted, Defendants  
2 deny each and every remaining allegation of Paragraph 144.

3 94. Answering Paragraphs 145-146, Defendants deny each and every allegation  
4 thereof.

5 95. Answering Paragraph 147, Defendants reallege and incorporate herein by  
6 reference each and every response made to the paragraphs set forth previously.

7 96. Answering Paragraph 148, Defendants allege that Government Code  
8 section 11135(a) speaks for itself. Except as expressly admitted, Defendants deny each  
9 and every remaining allegation of Paragraph 148.

10 97. Answering Paragraph 149, Defendants deny that DBHS is an agency of the  
11 County and affirmatively allege that DHHS is a department of the County. Defendants  
12 admit that the County receives state funding from the State of California. Except as  
13 expressly admitted, Defendants deny each and every remaining allegation of Paragraph  
14 149.

15 98. Answering Paragraphs 150-152, Defendants deny each and every allegation  
16 thereof.

17 **AFFIRMATIVE DEFENSES**

18 1. Plaintiffs' Complaint for Injunctive and Declaratory Relief fails to state a  
19 claim against Defendants upon which relief can be granted.

20 2. The Medicaid statutes and regulations on which Plaintiffs base their  
21 Complaint do not afford a private cause of action.

22 3. The Supremacy Clause is not applicable to the claims alleged against  
23 Defendants.

24 4. The Complaint does not allege a case or controversy in that the matters  
25 alleged therein are not ripe for adjudication.

26 5. Plaintiffs, as individuals and as class representatives, lack standing to bring  
27 this action.

28 6. Plaintiffs have failed to join the State of California and the State

1 Department of Mental Health as parties who must be joined in this action under Rule 19  
2 in that the State of California and the State Department of Mental Health are responsible  
3 for the administration of the State Medicaid program and for ensuring compliance of the  
4 County's Mental Health Plan with federal and state requirements.

5 7. Plaintiffs' Complaint is moot in that the proposed plan alleged therein was  
6 not submitted or adopted by the Board of Supervisors; another plan was approved and is  
7 being implemented.

8 8. Plaintiffs' claims relating to the ADA's integration mandate are barred in  
9 that Plaintiffs are not currently institutionalized or at serious risk of institutionalization as  
10 a result of the County's restructuring of the Adult Outpatient Mental Health System.

11 9. The continued provision of mental health services under the service  
12 delivery model in existence for fiscal year 2009-2010 would constitute a fundamental  
13 alteration of its Adult Outpatient Mental Health System and would jeopardize the  
14 provision of mental health services to other categories of mentally ill consumers in  
15 Sacramento County.

16 10. The separation of powers doctrine prohibits the judiciary from dictating the  
17 manner in which services are provided to mentally ill consumers in Sacramento County.

18 **WHEREFORE**, Defendants pray that:

- 19 1. The Complaint be dismissed in its entirety;  
20 2. Plaintiffs take nothing from Defendants;  
21 3. Defendants be awarded their costs and reasonable attorneys fees incurred in  
22 defending this action; and  
23 4. Defendants be awarded such further relief as the Court may deem just and  
24 proper.

25 DATED: June 23, 2010

ROBERT A. RYAN, JR., County Counsel  
Sacramento County, California

26 By: /S/ Michele Bach  
27 MICHELE BACH  
28 Supervising Deputy

w:\Mitigate\dhhs\2010\leslie napper~128.10a\answer.doc