

1 EUGENIE DENISE MITCHELL, State Bar No. 95601
STEPHEN GOLDBERG, State Bar No. 173499
2 NORTHERN CALIFORNIA LAWYERS FOR CIVIL JUSTICE
604 12th Street
3 Sacramento, CA 95814
Telephone: (916) 554-3310

4 CLARE PASTORE, State Bar No. 135933
5 YOLANDA VERA, State Bar No. 130370
ROBERT NEWMAN, State Bar No. 86534
6 WESTERN CENTER ON LAW AND POVERTY
3701 Wilshire Blvd., Ste 208
7 Los Angeles, CA 90010
Telephone: (213) 487-7211

8 HOPE NAKAMURA, State Bar No. 126901
9 ADVOCATES FOR EQUAL JUSTICE
40 Birch Street, #2
10 Redwood City, CA 94063
Telephone: (650) 364-4855

11 SARAH E. KURTZ, State Bar No. 99881
12 EAST PALO ALTO COMMUNITY LAW PROJECT
1395 Bay Road
13 East Palo Alto, CA 94303
Telephone: (650) 853-1600

14 MICHAEL KEYS, State Bar No. 133815
15 KATHRYN PALAMOUNTAIN, State Bar No. 183246
NATIONAL CENTER FOR YOUTH LAW
16 114 Sansome Street, Suite 900
San Francisco, CA 94104
17 Telephone: (415) 543-3307

18 (Continued on next page)

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 FOR THE COUNTY OF SACRAMENTO

21 DAVID PAOLI, RUBY SLOVER,)
FERGIE OWENS, ALICIA PRADO,)

22 Petitioners,)

23 vs.)

24 ELOISE ANDERSON, Director,)
25 Department of Social Services;)
CALIFORNIA DEPARTMENT)
26 OF SOCIAL SERVICES;)
CRAIG BROWN, Director,)
27 California Department of)
Finance; DOES I-XX,)

28 Respondents.)

Case No. 97CS02566

CLASS ACTION

**STIPULATION FOR ENTRY
OF PRELIMINARY INJUNCTION
AND ORDER**

1 JODIE BERGER, State Bar No. 124144
2 CENTER ON POVERTY LAW
3 AND ECONOMIC OPPORTUNITY
4 449 15th Street, Suite 301
5 Oakland, CA 94612
6 Telephone: (510) 891-9794

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Attorneys for Petitioners

1 WHEREAS, the parties hereto wish to avoid litigation on the issues raised by these
2 petitioners in this case;

3 IT IS HEREBY STIPULATED by and between the parties hereto through their
4 undersigned counsel that the court may enter the accompanying preliminary injunction.

5 IT IS SO AGREED.

6
7 Dated: November 6, 1997

Northern California Lawyers For Civil Justice
Western Center on Law and Poverty
Advocates for Equal Justice
East Palo Alto Community Law Project
National Center for Youth Law
Center on Poverty Law and Economic Development

11 By: Eugenie Denise Mitchell
12 EUGENIE DENISE MITCHELL
13 Attorneys for Petitioners
14

15 Dated: November 6, 1997

Daniel Lungren, Attorney General
Dennis Eckhart, Supervising
Deputy Attorney General
Margarita Altamirano, Deputy Attorney General

18
19 By: Margarita Altamirano
20 Attorneys for Respondents Eloise Anderson,
21 California Department of Social Services,
22 and Craig Brown
23
24
25
26
27
28

1 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that during the pendency of
2 this action respondents Eloise Anderson, California Department of Social Services and Craig
3 Brown and their respective employees and agents, including but not limited to the county welfare
4 departments, are enjoined and prohibited from enforcing the current State Department of Social
5 Services' Manual of Policies and Procedures ("MPP") Sections 44-207.4 through 44-207.462 to
6 the extent that such enforcement results in a period of ineligibility during the month of
7 November 1996, or any subsequent month, for AFDC/CalWORKS ("AFDC") applicants and/or
8 recipients based upon the receipt of nonrecurring lump sum income ("the lump sum rule").

9 IT IS FURTHER ORDERED that respondents and their respective employees and agents,
10 including the county welfare departments, shall take all steps necessary to ensure that:

11 1. All counties are informed in writing of the terms of this order by means of an All
12 County Letter (ACL) no later than November 7, 1997. Petitioners' counsel shall be provided
13 with a copy of the ACL no later than noon of the second day prior to release. The comments of
14 petitioners' counsel shall be considered when received by respondents no later than 5:00 p.m. of
15 that day. The ACL shall instruct the counties that:

16 (a) they are immediately to cease applying the lump sum rule;

17 (b) they are to rescind any lump sum notices of action which have been issued
18 to persons for whom a period of ineligibility has not yet begun;

19 (c) they are to issue notices as soon as practicable but no later than November
20 21, 1997, to the persons identified in accordance with paragraph seven, informing such
21 persons that the lump sum rule has ended and that they may now be eligible for AFDC
22 benefits and advising such persons that they may apply immediately for benefits if they
23 believe they are eligible;

24 (d) they must evaluate the immediate need eligibility of any person applying
25 for AFDC who would otherwise be ineligible as a result of the lump sum rule and ask
26 whether the family is currently in any of the emergency situations set forth at MPP
27 Section 40-129.13 if the person identifies herself as currently in a period of ineligibility
28

1 due to the lump sum rule and/or if the person presents a notice that was sent in
2 accordance with paragraph seven.

3 (e) they must determine eligibility and issue benefits, in accordance with
4 current regulations, to those found eligible;

5 (f) they will be informed at a later time regarding the process for providing
6 retroactive benefits to those eligible under the terms of this order; and

7 (g) they shall prominently display a poster from November 21, 1997, through
8 December 31, 1997, in accordance with the requirements of this order, as set forth in
9 paragraph four.

10 2. Those named petitioners who are not currently receiving AFDC benefits shall be
11 evaluated for AFDC eligibility and shall be provided prospective AFDC benefits for which they
12 are eligible within five (5) business days of providing the county with a completed application
13 and all necessary verifications, provided that petitioners' counsel gives advance notice to the
14 county in question of the date that petitioners will be applying for benefits. For those named
15 petitioners who are currently receiving AFDC benefits, the counties in question shall
16 immediately cease applying the lump sum rule as to them.

17 3. As soon as practicable, the named petitioners shall receive payment of any and all
18 retroactive benefits denied as a result of respondents' application of the lump sum rule on or after
19 November 1, 1996. In accordance with MPP Section 44-340.6, such payment shall not be
20 considered as income or a resource in the month paid nor in the next following month for AFDC
21 or CalWORKs eligibility or grant level determinations.

22 4. Respondents shall prepare a poster stating that the lump sum rule has ended and
23 that persons in a period of ineligibility may now be eligible for AFDC benefits and advising such
24 persons that they may apply immediately for benefits if they believe they are eligible. The poster
25 shall be mailed to all counties no later than November 14, 1997, and to a list of local legal aid
26 offices provided by petitioners' counsel within five (5) business days of the date that petitioners'
27 counsel provides the list. Petitioners' counsel shall be provided with a copy of the proposed
28

1 poster no later than noon of the third day prior to mailing. The comments of petitioners' counsel
2 shall be considered when received by respondents no later than the second day prior to mailing.

3 5. No later than November 10, 1997, a copy of the ACL described in paragraph one
4 and this order shall be provided to the Chief Administrative Law Judge for immediate
5 distribution of the ACL to all Administrative Law Judges hearing AFDC matters. In his
6 discretion, the Chief Administrative Law Judge may also distribute this order to all
7 Administrative Law Judges hearing AFDC matters.

8 6. Except as provided in paragraph three, all persons denied AFDC benefits as a
9 result of respondents' application of the lump sum rule on or after November 1, 1996, shall be
10 evaluated for eligibility for retroactive AFDC benefits and paid any and all such benefits
11 determined to be owing by means of a process to be negotiated with petitioners' counsel and
12 commencing no earlier than February 1, 1998. It is understood that so far the parties to this
13 action have been unable to resolve their differences on whether prejudgment interest shall be
14 paid to petitioners and all other persons who are eligible for retroactive benefits as a result of
15 respondents' application of the lump sum rule on or after November 1, 1996. As a result of this
16 disagreement, the entire issue of prejudgment interest has been expressly reserved for further
17 negotiations between the parties.

18 7. All persons who can be identified by respondents through electronic data
19 processing as currently ineligible for AFDC because of application of the lump sum rule shall be
20 provided with written notice of the change in the lump sum rule and advised that they may be
21 eligible for cash aid if they reapply. Such notice shall be mailed to these persons' last known
22 addresses no later than November 21, 1997. Petitioners' counsel shall be provided with a copy
23 of this notice no later than noon of the second day prior to the date the ACL described in
24 paragraph one is released. The comments of petitioners' counsel shall be considered when
25 received by respondents by no later than 5:00 p.m. of that day.

26 8. Through good faith negotiation with petitioners' counsel as to its timing and
27 content, written notice shall be provided that the lump sum rule has changed and that retroactive
28 benefits may be available.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: November ____, 1997

JUDGE JAMES T. FORD

JUDGE OF THE SUPERIOR COURT