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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROBIN HALL and STEVEN SUMMERS,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE and GEORGE ERVIN
“SONNY” PERDUE III,** in his official capacity
as United States Secretary of Agriculture,

Defendants.

Case No. 3:20-cv-3454

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

CLASS ACTION

1 1. The United States is in the grip of the COVID-19 global pandemic, the worst
2 in more than a century. It has created a dangerous public health crisis, unprecedented rates of
3 unemployment, and profound social and economic disruption. Among the most immediate
4 and urgent problems arising from the pandemic is hunger. Food prices are higher, many food
5 staples are scarce, and shelter-in-place orders make food less accessible, particularly for
6 those most vulnerable to the health risks of the coronavirus. One in four California
7 households is now food insecure, telling public health researchers that “the food we bought
8 just didn’t last, and we didn’t have enough money to buy more.”

9 2. In response to this public health crisis, Congress passed the Families First
10 Coronavirus Response Act (“Families First Act”). Among its goals, the Act sought to
11 address rising food insecurity and hunger with significant additional resources for the federal
12 government’s Supplemental Nutrition Assistance Program (“SNAP,” formerly known as the
13 Food Stamp program). Congress directed the Secretary of Agriculture to approve state
14 requests for emergency benefits to be distributed to current SNAP recipients to help them
15 meet temporary food needs during the public health emergency.

16 3. The United States Department of Agriculture (“USDA”) has implemented an
17 interpretation of the Act that departs from the statute’s directive and prevents state SNAP
18 administrators, including the California Department of Social Services, from providing
19 emergency food benefits to households that are receiving the maximum SNAP monthly
20 benefit. These are the households with the lowest incomes, fewest resources, and greatest
21 likelihood of hunger. USDA is denying emergency food assistance to those who need it the
22 most in the midst of this unparalleled economic and health catastrophe.

23 4. Plaintiffs Robin Hall and Steven Summers challenge USDA’s interpretation
24 of the Families First Coronavirus Response Act in a manner that denies emergency food
25 benefits to the Californians most in need.

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JURISDICTION, VENUE, AND RIGHT OF ACTION

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2 5. This action is brought against an Executive Branch agency and a current
3 Executive Branch official in his official capacity. The Court has subject matter jurisdiction
4 pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1346 (actions
5 against the United States), and 5 U.S.C. § 702 (providing for judicial review of agency action
6 under the Administrative Procedure Act).

7 6. Venue in this judicial district is proper under 28 U.S.C. § 1391(e)(1) because
8 Plaintiffs Robin Hall and Steven Summers reside in the District.

9 7. Plaintiffs’ action for declaratory and injunctive relief is authorized by
10 28 U.S.C. §§ 2201(a) and 2202 and by Rules 57 and 65 of the Federal Rules of Civil
11 Procedure. 5 U.S.C. § 702 confers rights of action to enforce the statutes cited in this
12 complaint.

13
14 **PARTIES**

15 8. Plaintiff Robin Hall is a resident of Santa Rosa in Sonoma County, California.
16 She is currently eligible for and receiving the maximum SNAP benefits for her household
17 size of one person.

18 9. Plaintiff Steven Summers is a resident of Oakland in Alameda County,
19 California. He is currently eligible for and receiving the maximum SNAP benefits for his
20 household size of one person, less \$10 each month due to an earlier overissuance of benefits.

21 10. Defendant United States Department of Agriculture is the federal agency
22 charged with implementing SNAP, which provides nutritional assistance to low-income
23 individuals throughout the United States. 7 U.S.C. § 2013(a). USDA’s component agency,
24 the Food and Nutrition Service, administers SNAP. 7 C.F.R. §§ 2.57(a)(1), 271.3(a).

25 11. Defendant George Ervin “Sonny” Perdue III is the current U.S. Secretary of
26 Agriculture. As Secretary, he is responsible for all actions taken by USDA. 7 U.S.C.
27 § 2013(a). Secretary Perdue is sued in his official capacity.

FACTS

I. SNAP is an Essential Anti-Hunger Program, Serving Millions of Californians Through the CalFresh Program.

12. SNAP is the country’s largest anti-hunger program. It provides food to over forty million low-income individuals and families and is often the last resource to stave off hunger for children and adults across the country.

13. Recognizing that “the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households,” Congress created SNAP to “safeguard the health and well-being of the Nation’s population” and “alleviate . . . hunger and malnutrition” by “permit[ing] low-income households to obtain a more nutritious diet through normal channels of trade.” 7 U.S.C. § 2011. The federally funded program provides benefits that qualifying individuals can redeem for eligible foods at authorized retailers. *Id.* § 2013(a). The program helps create financial stability for low-income individuals while also strengthening the nation’s agricultural economy. *Id.* § 2011.

14. The Food and Nutrition Act requires that each state designate a state agency to administer SNAP benefits for its residents. *Id.* § 2020; 7 C.F.R. § 271.4. Each state also designs its own policies and regulations for administering SNAP benefits for its population, within the parameters set by the Food and Nutrition Act and USDA. 7 U.S.C. § 2020(d)-(e).

15. California’s SNAP program, known as “CalFresh,” is administered by the California Department of Social Services (“CDSS” or “the Department”) in coordination with the state’s 58 county human services agencies. Cal. Welf. & Inst. Code § 18902. The Department determines who qualifies for CalFresh benefits and issues California-specific SNAP regulations and policies. *See id.* §§ 18904, 18904.1. As of March 2020, CalFresh provided benefits to over 4 million individuals and nearly 2.19 million households in California.¹

¹ Cal. Dep’t of Soc. Servs., *CalFresh Data Dashboard* (last updated May 1, 2020), <https://www.cdss.ca.gov/inforesources/data-portal/research-and-data/calfresh-data-dashboard> (last visited May 18, 2020).

1 16. The maximum SNAP allotment is determined by household size and uniform
 2 across all states in the contiguous United States and the District of Columbia. 7 U.S.C.
 3 § 2014(b); 7 C.F.R. § 273.10(e)(4)(i). Currently the maximum monthly allotment for an
 4 individual is \$194 per month. This is the equivalent of \$6.38 per day or about \$2 per meal.
 5 Maximum SNAP allotments increase as household size increases, as shown in the table
 6 below:

7 *Federal Fiscal Year 2020 Maximum Allotment by Household Size²*

1	2	3	4	5	6	7	8	Each Add'l Person
\$194	\$355	\$509	\$646	\$768	\$921	\$1,018	\$1,164	+\$146

11
 12 **II. The COVID-19 Pandemic Largely Shut Down Our Nation's Economy and Food
 13 Insecurity Has Proliferated.**

14 17. The United States is entering the worst economic crisis since the Great
 15 Depression, caused by the 2019 novel coronavirus (COVID-19) pandemic. As of the filing
 16 of this Complaint, the Centers for Disease Control and Prevention reports over 90,000 deaths
 17 and over 1.5 million cases in the United States—although experts believe that the infection
 18 and death toll are far higher.

19 18. As coronavirus cases escalated worldwide, the World Health Organization
 20 designated the outbreak as a Public Health Emergency of International Concern on January
 21 30, 2020. The next day, January 31, U.S. Health and Human Services Secretary Alex Azar
 22 declared a public health emergency for the entire United States, retroactive to January 27.
 23 On March 11, the World Health Organization declared the outbreak a pandemic. California
 24 Governor Gavin Newsom proclaimed a statewide state of emergency due to COVID-19 on

25
 26 ² Cal. Dep't of Soc. Servs., All County Info. Notice I-54-19, *CalFresh Cost-of-Living*
 27 *Adjustments Effective October 1, 2019* at 2 (Aug. 21, 2019),
 28 https://www.cdss.ca.gov/Portals/9/ACIN/2019/I_54_19_ES.pdf?ver=2019-09-24-104141-480.

1 March 4, 2020. On March 13, 2020, President Donald Trump declared a national emergency
2 to contain and combat the coronavirus. On March 22, 2020, President Trump also declared a
3 major disaster in California as a result of the pandemic.

4 19. Fearing increasing rates of infection and resulting strain on the hospital
5 system, on March 16, 2020, six counties in the San Francisco Bay Area (Alameda, Contra
6 Costa, Marin, San Francisco, San Mateo, and Santa Clara) announced shelter-in-place orders,
7 effective March 17. These orders prohibit residents from leaving their homes except to
8 complete essential activities and require all non-essential businesses and establishments to
9 suspend their operations. On March 19, 2020, Governor Newsom issued an executive order
10 imposing similar shelter-in-place restrictions for all California residents. Shortly thereafter,
11 states and localities across the nation began imposing their own shelter-in-place orders. On
12 April 29, 2020, the six Bay Area counties and the city of Berkeley extended their shelter-in-
13 place orders until May 31. As of today, those same six counties and Berkeley have either
14 lifted some restrictions or announced they would do so, consistent with the guidelines of
15 “Stage Two” the governor’s “Resilience Roadmap” for reopening, but all counties in
16 California are still operating at limited levels.

17 20. COVID-19 has had breathtaking economic consequences. On April 29, 2020,
18 the Department of Commerce’s Bureau of Economic Analysis released data estimating that
19 the U.S. gross domestic product contracted by 4.8 percent during the first quarter of 2020, the
20 worst quarterly decline since the Great Recession in 2008. The Congressional Budget Office
21 projects an even deeper contraction of 12 percent in the second quarter. Unemployment rates
22 are skyrocketing, surpassing those seen in the Great Depression of the 1930s. Nationwide,
23 nearly 36.5 million people have filed for unemployment insurance to date. On May 8, 2020,
24 the Department of Labor’s Bureau of Labor Statistics reported that the national
25 unemployment rate soared to 14.7 percent, from 3.5 percent in February.

26 21. California is experiencing the public health, economic, and social effects of
27 the coronavirus pandemic. As of this filing, California alone reports over 84,000 coronavirus
28 infections and over 3,000 deaths. The widespread closure of restaurants, hotels, and other

1 businesses is wreaking havoc on the state economy and threatening the livelihoods of
 2 millions of Californians. On May 14, 2020, the California Employment Development
 3 Department announced that it had processed a total of 4.7 million unemployment insurance
 4 claims since the beginning of the coronavirus outbreak, which likely means that 25 percent of
 5 California's workers are unemployed.

6 22. The staggering increase in unemployment and financial uncertainty likely will
 7 also cause millions of people to become food insecure and experience hunger. In 2018, 37
 8 million Americans experienced some level of food insecurity, meaning they lacked reliable
 9 access to sufficient and quality food. If unemployment and poverty rates continue to climb,
 10 that number could rise to over 54 million people.³ A recent study from a project of the
 11 Brookings Institution found that, by the end of April 2020, more than one in five households
 12 in the United States and two in five households with mothers with children aged 12 and
 13 under were food insecure.⁴ Greater food insecurity strains the nation's food banks, soup
 14 kitchens, and other sources of food assistance, causing many more people to go hungry.

15 23. In California, jobless rates since the pandemic have been highest among the
 16 entertainment, hospitality, food, and other services industries—industries whose workers are
 17 most likely to be food insecure.⁵

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22 _____
 23 ³ See Feeding Am., *The Impact of the Coronavirus on Food Insecurity* 1 (last revised Apr.
 24 22, 2020), <https://hungerandhealth.feedingamerica.org/resource/impact-coronavirus-food-insecurity/>.

25 ⁴ Lauren Bauer, The Hamilton Proj., *The COVID-19 Crisis Has Already Left Too Many*
 26 *Children Hungry in America* (May 6, 2020), https://www.hamiltonproject.org/blog/the_covid_19_crisis_has_already_left_too_many_children_hungry_in_america.

27 ⁵ Sarah Bohn et al., Pub. Pol'y Inst. of Cal., *Early Insights on California's Economic*
 28 *Downturn* (Apr. 23, 2020), <https://www.ppic.org/blog/early-insights-on-californias-economic-downturn/>.

1 **III. Congress Passed the Families First Coronavirus Response Act to Strengthen**
2 **Nutrition Assistance and Provide Temporary Relief for SNAP Recipients.**

3 24. Faced with the potential for a national public health crisis and widespread
4 economic meltdown, committee leaders in the U.S. House of Representatives introduced
5 H.R. 6201, the Families First Coronavirus Response Act of 2020. Among many critical
6 provisions, the bill provided for the COVID-19 Supplemental Nutrition Assistance Program
7 (CR-SNAP), a package of initiatives to combat rising hunger and food insecurity.

8 25. H.R. 6201 appropriated funds to USDA to provide additional emergency
9 SNAP allotments. The bill also provided additional SNAP benefits for households with
10 children who could not access free or reduced-priced meals due to school closures; expanded
11 access to child nutrition and school meals programs and the Special Supplemental Nutrition
12 Program for Women, Infants, and Children (WIC); authorized nutrition grants or
13 supplemental grants to U.S. territories and emergency food assistance programs; and
14 suspended the time limit on benefits for out-of-work adult SNAP recipients.

15 26. On March 14, 2020, the House passed the Families First Coronavirus
16 Response Act, garnering 363 votes in favor, 40 votes against, and one “present” vote. The
17 Senate quickly took up H.R. 6201 and passed it with 90 votes in favor on March 18, 2020.
18 The same day, President Trump signed the bill as the Families First Coronavirus Response
19 Act of 2020, Pub. L. No. 116-127, 134 Stat. 178 (Mar. 18, 2020). President Trump also
20 released a fact sheet explaining, “This legislation provides strong economic assistance to
21 American businesses, workers, and families, alleviating financial burdens experienced by
22 those affected by the virus,” including “funding and flexibility for emergency nutritional aid
23 for senior citizens, women, children, and low-income families.”⁶

24 27. Section 2302(a) of the Families First Act requires the Secretary of Agriculture
25 to approve state agency requests to provide emergency allotments of SNAP benefits to

26 ⁶ Press Release, White House, President Donald J. Trump Is Supporting American
27 Businesses, Workers, and Families Impacted by the Coronavirus (Mar. 18, 2020),
28 <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-supporting-american-businesses-workers-families-impacted-coronavirus/>.

1 participating households when (1) a public health emergency is declared by the Secretary of
 2 Health and Human Services based on an outbreak of COVID-19, and (2) a State has issued
 3 an emergency or disaster declaration based on an outbreak of COVID-19.

4 28. As to the amount of the emergency allotments, section 2302(a)(1) provides:

5 [T]he Secretary of Agriculture . . . shall provide . . . for emergency allotments
 6 . . . not greater than the applicable maximum monthly allotment for the
 household size[.]

7
 8 **IV. USDA Implements an Interpretation of Section 2302(a)(1) That Is Counter to**
 9 **the Language of the Families First Act.**

10 29. By memorandum dated March 20, 2020, USDA provided guidance to states
 11 requesting emergency allotments under section 2302 of the Families First Act.

12 30. The March 20 memorandum included a template “Request to Provide
 13 Emergency Allotments (Supplements) to SNAP Households.” In the template request,
 14 USDA described a permissible state request as follows:

15 The State proposes to provide an emergency allotment to address temporary
 16 food needs to households *to bring all households up to the maximum benefit*
 due to pandemic related economic conditions for up to 2 months. (Emphasis
 17 added.)

18 31. On April 10, 2020, USDA issued a memorandum to all states that summarily
 19 denied all state requests that sought to adjust SNAP eligibility requirements that “do not meet
 20 the requirements for approval provided under the Families First Coronavirus Response
 21 Act[.]” The memorandum stated that the Act “provided USDA discretion in approving
 22 adjustment requests, and USDA has taken into consideration the factors outlined in [the
 23 Families First Act] when evaluating requests.” Therefore, Food and Nutrition Services was
 24 denying state requests “that seek to adjust SNAP eligibility requirements by . . . [p]roviding
 25 emergency allotments that exceed the maximum benefit for a household’s size.”

26 32. On April 21, 2020, USDA provided updated guidance regarding the issuance
 27 of emergency allotments for future months. The April 21 memorandum provides that all
 28 states that received USDA approval for the first two months of emergency allotment

1 issuances, including California, are approved to continue issuing monthly emergency
 2 allotments in the manner approved until the end of the COVID-19 public health emergency.
 3 The April 21 memorandum did not alter USDA’s March 20 guidance on eligibility for and
 4 amount of emergency benefit allotments. USDA reiterated that:

5 A household’s [emergency allotment] cannot increase the current monthly household
 6 SNAP benefit allotment beyond ‘the applicable maximum monthly allotment for the
 7 household size.’ Accordingly, SNAP households that already receive the maximum
 8 monthly allotment for their household size are not eligible for [emergency
 9 allotments].

10 33. On April 27, 2020, USDA issued a memorandum to states directing them to
 11 report all SNAP emergency allotments issued in a given month as “Disaster Supplements.”
 12 The memorandum did not alter the March 20 guidance.

13 **V. California Requests Emergency Allotments for SNAP Households, While
 14 Challenging USDA’s Interpretation of the Families First Act.**

15 34. On March 25, 2020, Alexis Fernández, Chief of the CalFresh and Nutrition
 16 Branch of the California Department of Social Services, submitted California’s request to
 17 provide emergency allotments pursuant to section 2302 of the Families First Act. The cover
 18 letter explicitly rejected USDA’s interpretation of the Act, declaring that:

19 CDSS disagrees with the U.S. Department of Agriculture (USDA)’s interpretation of
 20 this section as meaning that a household may only receive supplemental SNAP
 21 benefits to the extent that the supplement raises the household’s total benefit level to
 22 the maximum benefit amount based on household size. CDSS finds this
 23 interpretation to be in conflict with both the plain language of the Act and the
 24 circumstances leading to the passage of the Act.

25 35. California’s letter further stated that the Department “finds no basis in the text
 26 of the Act to support the USDA’s interpretation of ‘emergency allotment’ as supplemental to
 27 current allotments in such a way that when added to a household’s current benefit, the total
 28 benefit amount—both current and emergency—do not exceed the maximum household
 allotment when summed.” The Department warned that USDA’s interpretation contravened
 the intent of the Families First Act to “alleviate the negative impacts caused by the COVID-
 19 pandemic” and “would leave the most vulnerable households who have the least resources

1 without any increase in SNAP benefits, as many are already receiving the maximum monthly
2 benefit allotment.”

3 36. California’s March 25 request relied on a calculation for emergency
4 allotments that attempted to align the language of the Act with USDA’s guidance. The
5 Department estimated the total value of potential benefits resulting from USDA’s
6 interpretation of the emergency allotments provision (\$253,647,113 per month) and proposed
7 dividing that amount by the total number of SNAP recipients (4,075,962 individuals). This
8 method would have resulted in an emergency allotment payment of \$60 to each person in
9 every participating household in California in March and April 2020, in addition to their
10 regular monthly SNAP allotments. According to the Department:

11 This proposed approach more equitably distributes limited resources among all SNAP
12 households across the state, including the poorest SNAP households. These
households are most likely to have unmet food needs in a time of crisis.

13 37. On March 26, 2020, Food and Nutrition Services rejected California’s request
14 for emergency allotments because it was “not aligned with the Emergency Allotment
15 guidance.” Food and Nutrition Services directed the Department to “revise the plan in
16 accordance with the template.”

17 38. The next day, March 27, the Department submitted a revised request to
18 USDA. In its cover letter, the Department wrote that “for reasons outlined in our initial
19 request, the Act authorizes payments more broadly than as interpreted by [Food and Nutrition
20 Services] and [the Department] reserves the right to challenge FNS’ implementation of the
21 Act.” In its request, the Department requested a revised total of \$253,647,115 per month in
22 allotments, based on the same estimate of SNAP households and individuals as in its
23 previous request, and proposed distributing emergency benefits only to households below the
24 maximum allotment in amounts that would bring them up to the maximum amount.

25 39. On March 30, 2020, Food and Nutrition Services approved California’s
26 revised request for emergency allotments.

27 40. On April 2, 2020, the Department issued an All County Welfare Directors
28 Letter regarding the emergency allotments, stating:

1 Emergency allotments will raise each household's regular monthly CalFresh
2 allotment to the maximum allowable allotment based on household size. Per guidance
3 provided by the Food and Nutrition Service, CalFresh households already receiving
the maximum allowable allotment based on household size are not eligible to receive
an emergency allotment of CalFresh benefits.

4 All CalFresh households not already at the maximum allowable allotment based on
5 household size are eligible to receive an emergency allotment[.]

6 41. In its March 27 revised request, the Department stated that there were
7 2,176,109 households eligible for SNAP benefits in California. In its report for the benefit
8 month of May, submitted on May 4, the Department reported that 1,151,714 households were
9 receiving emergency allotment benefits, meaning over one million SNAP-eligible households
10 did not receive emergency allotments for March and April.

11 42. In its report for the month of May, the Department stated that emergency
12 allotments for the benefit month of May would issue on June 13, 2020.

13

14 **VI. USDA's Guidance is Inconsistent with the Plain Language of the Families First**
15 **Act and Contravenes Congress's Intent to Strengthen SNAP During the**
16 **COVID-19 Pandemic.**

17 43. The Families First Act provides emergency allotments as supplemental food
18 benefits to address the temporary increase in emergency food needs, distinct from the regular
19 monthly allotments provided under the Food and Nutrition Act. The statute places a simple
20 cap on the amount of these emergency allotments: "not greater than the applicable maximum
monthly allotment for the household size."

21 44. USDA departs from the plain language of the Act by only approving state
22 requests to provide emergency allotments equal to the difference between a household's
23 regular monthly allotment and the maximum allotment for its household size. For
24 households currently receiving the maximum regular allotment, this calculation results in
25 *zero dollars* of additional benefits.

26 45. In passing the Families First Act, members of Congress, including the bill's
27 sponsor and co-sponsors, announced that its SNAP provisions were meant to *strengthen* food
28 assistance and provide additional temporary assistance to vulnerable families during the

1 coronavirus pandemic.⁷ There was no indication that Congress intended to leave the most
2 vulnerable families (those receiving the maximum monthly allotments) without any
3 emergency assistance, while providing the greatest assistance to households with relatively
4 higher incomes. Yet that is how USDA is implementing the Families First Act.

5 46. On April 23, 2020, Plaintiffs' counsel sent a letter to Defendants USDA and
6 Secretary Perdue advising them that their guidance interpreting section 2302(a)(1) of the
7 Families First Act was contrary to the language and purpose of the statute, and that as a
8 result, USDA unlawfully denied essential emergency assistance to Plaintiffs. Plaintiffs
9 requested that USDA withdraw the guidance and process California's past and future
10 requests for emergency allotments consistent with the Act.

11 47. On May 7, 2020, USDA responded to thank Plaintiffs' counsel for their April
12 23 letter. USDA took no actions to address Plaintiffs' concerns.

13

14 **VII. USDA's Guidance Adversely Harms the Plaintiffs**

15 48. Plaintiffs currently suffer and will continue to suffer harm if Defendants
16 continue to interpret section 2302(a)(1) of the Families First Act as reflected in the March 20
17 and April 21, 2020 guidance. Plaintiffs have no adequate remedy at law.

18 **A. Plaintiff Robin Hall**

19 49. Plaintiff Robin Hall is 45 years old and lives in transitional housing provided
20 by Catholic Charities in Santa Rosa, California. Because of her diagnosed medical
21 conditions, including Type 2 Diabetes and congestive heart failure, she is among the groups
22 considered most vulnerable to the life-threatening effects of COVID-19.

23 50. Ms. Hall has no income other than her monthly allotment of \$194 in SNAP
24 benefits, the maximum amount for her household size of one. In March, April, and May

25 ⁷ See, e.g., Press Release, House Comm. on Approps., House Democrats Introduce Families
26 First Coronavirus Response Act (Mar. 11, 2020), <https://appropriations.house.gov/news/press-releases/house-democrats-introduce-families-first-coronavirus-response-act>
27 (Congressman Bobby Scott (D-VA), bill co-sponsor, quoted as saying the Act "provides our
28 constituents the . . . food assistance . . . they need to cope with the widespread consequences of this pandemic").

1 2020, Ms. Hall received her monthly SNAP allotments. She is not receiving emergency
2 allotments.

3 51. Because of the pandemic, shelter-in-place orders, and related economic
4 impacts, Ms. Hall's monthly SNAP benefits must cover more of her food needs than before
5 the pandemic. The church and drop-in service center for homeless women where she
6 previously obtained free meals each day have closed or greatly restricted their hours because
7 they are considered non-essential businesses. She must avoid the soup kitchen that she used
8 to frequent for free lunch because of health concerns and the risk of coronavirus infection.
9 She now relies on her SNAP benefits for breakfast and lunch nearly every day, which means
10 she has to skip those meals when her benefits run out in the middle of the month. She is
11 already skipping at least one meal a day frequently to stretch out her monthly SNAP benefits.

12 52. As a current SNAP recipient, the Families First Act entitles Ms. Hall to
13 emergency SNAP allotments. Because she is entitled to receive the maximum monthly
14 allotment for a household size of one, however, Ms. Hall is not receiving any additional
15 benefits.

16 **B. Plaintiff Steven Summers**

17 53. Plaintiff Steven Summers is 64 years old and lives alone in a rent-controlled
18 studio apartment in a converted hotel in Oakland, California. Because of his age, he is
19 among the groups considered most vulnerable to the life-threatening effects of COVID-19.

20 54. Mr. Summers has no regular income other than his monthly allotment of \$194
21 in SNAP benefits, the maximum amount for his household size of one, less \$10 each month
22 due to an earlier overissuance of benefits. In March, April, and May 2020, Mr. Summers
23 received his monthly SNAP allotments. He is not receiving emergency allotments.

24 55. Because of the pandemic, shelter-in-place orders, and related economic
25 impacts, it is more difficult for Mr. Summers to meet his food needs with his SNAP benefits
26 than before the pandemic. The free groceries he previously relied on from a local food
27 pantry now come in a pre-selected grocery box with fewer fruits and vegetables, and fewer
28 items that he needs. He exhausts his SNAP benefits more quickly buying food from local

1 grocery stores where prices are slowly rising and the lower priced items he usually purchases
2 are harder to find. His normal practice of visiting multiple stores to find the lowest priced
3 food items is more time-consuming with physical distancing practices and increases his risk
4 of exposure to COVID-19, causing him to pay more for items he cannot do without.

5 56. As a current SNAP recipient, the Families First Act entitles Mr. Summers to
6 emergency SNAP allotments. Because he is entitled to receive the maximum monthly
7 allotment for a household size of one, however, Mr. Summers is not receiving any additional
8 benefits.

9 10 **CLASS ACTION ALLEGATIONS**

11 57. Named Plaintiffs Robin Hall and Steven Summers seek to represent a
12 Proposed Class defined as: SNAP recipients in California who have been deemed eligible to
13 receive, are receiving, or will receive the regular maximum monthly SNAP allotment for
14 their household size from March 2020 until the Secretary for Health and Human Services
15 rescinds the COVID-19 public health emergency declaration or the State-issued emergency
16 or disaster declaration expires.

17 58. The requirements of Federal Rule of Civil Procedure 23(a)(1) are met because
18 the Proposed Class is so numerous that joinder of all members is impracticable. According to
19 data prepared by the California Department of Social Services and submitted to USDA, there
20 are over one million SNAP-eligible households are not receiving emergency allotments.

21 59. The requirements of Rule 23(a)(2) are met in that members of the Proposed
22 Class share common issues of law and fact. The core common legal question is: Has the
23 USDA misinterpreted Section 2302(a)(1) in violation of the Administrative Procedures Act
24 by limiting eligibility for emergency allotments to SNAP recipients who receive less than the
25 maximum regular monthly benefit for their household size?

26 60. The requirements of Rule 23(a)(3) are met in that the claims of the Proposed
27 Class Representatives are typical of the claims of the class they represent:
28

1 a. Proposed Class Representative Robin Hall is eligible for and receives the
2 maximum monthly SNAP allotment for her household size and is not
3 receiving emergency allotments.

4 b. Proposed Class Representative Steven Summers is eligible for and receives
5 the maximum monthly SNAP allotment for his household size (less \$10 each
6 month due to an earlier overissuance of benefits) and is not receiving
7 emergency allotments.

8 61. The requirements of Rule 23(a)(4) are met in that the Proposed Class
9 Representatives are committed to and will fairly and adequately protect the interests of the
10 Class. In supporting their individual claims, the Proposed Class Representatives will
11 simultaneously advance the claims of absent class members. They know of no conflict of
12 interest between any of themselves and the Class or any class members and are likewise
13 unaware of any conflict of interest between or among any of the class members.

14 62. The requirements of Rule 23(g) are met in that the Named Plaintiffs and
15 Proposed Class are represented by experienced counsel who will adequately represent the
16 interests of the Class. Western Center on Law and Poverty has deep expertise in public
17 benefits litigation and has acted as class counsel in many class actions on behalf of poor and
18 low-income clients. Impact Fund has a long history of litigating complex federal class
19 actions and has acted as class counsel in many civil rights and social justice class actions.

20 63. The requirements of Rule 23(b)(2) are met in that Defendants have acted, and
21 continue to act, on grounds generally applicable to the Class that the Named Plaintiffs seek to
22 represent, thereby rendering appropriate injunctive and declaratory relief for the Class as a
23 whole. Defendants have distributed and implemented guidance that deprives members of the
24 Proposed Class from receiving emergency allotments of SNAP benefits. An order enjoining
25 the USDA guidance and any future interpretation of Section 2302(a)(1) of the Families First
26 Act to that effect will redress the injuries to the members of the Proposed Class.

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1 **CAUSES OF ACTION**

2 **FIRST CLAIM FOR RELIEF**

3 **Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C)**
4 **Against Defendants USDA and Perdue – In Excess of Statutory Authority**

5 64. Plaintiffs re-allege and incorporate by reference the allegations in the preceding paragraphs.

6 65. Under the Administrative Procedure Act (APA), 5 U.S.C. § 500 *et seq.*, courts must overturn agency action that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

7 66. USDA is an “agency” under the APA. *See* 5 U.S.C. § 551(1).

8 67. The March 20 memorandum and guidance is a final agency action subject to judicial review under the APA. *See* 5 U.S.C. § 704.

9 68. USDA and Secretary Perdue, as agents of the Executive Branch, do not have authority to deny appropriate State applications in a manner that eliminates or curtails emergency benefit allotments legislated by Congress.

10 69. USDA’s interpretation of section 2302(a)(1) of the Families First Act, as set forth in the March 20 and April 21 memoranda, is inconsistent with the plain language of the statute.

11 70. Accordingly, because USDA had no jurisdiction, authority, or right to restrict eligibility for emergency allotments under the Families First Act, USDA’s interpretation of section 2302(a)(1) violates the APA and must be set aside. 5 U.S.C. § 706(2)(C).

12 71. Plaintiffs Hall and Stevens and the Proposed Class are within the zone of interest of section 2302 because the legislation is intended to increase SNAP benefits to recipients like themselves.

13 72. Plaintiffs have been harmed by the actions of Defendants because USDA and Secretary Perdue have prevented California from providing the Plaintiffs and the Proposed Class with emergency nutrition assistance as Congress intended.

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SECOND CLAIM FOR RELIEF
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
Against Defendants USDA and Perdue – Arbitrary and Capricious

73. Plaintiffs re-allege and incorporate by reference the allegations in the preceding paragraphs as if set forth fully herein.

74. Under the APA, courts must overturn agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

75. USDA’s interpretation of section 2302(a)(1) of the Families First Act, as set forth in its March 20 and April 21 memoranda, is arbitrary and capricious because it eliminates or curtails emergency benefit allotments legislated by Congress in a manner that Congress did not intend.

76. Although USDA may implement policies within the limits set by Congress, the APA requires agencies to provide a reasoned explanation for their actions, which USDA has failed to do.

77. Accordingly, because USDA’s interpretation of section 2302(a)(1) is arbitrary and capricious, it violates the APA and must be set aside. 5 U.S.C. § 706(2)(A).

78. Plaintiffs Hall and Stevens and the Proposed Class are within the zone of interest of section 2302 because the legislation is intended to increase SNAP benefits to recipients like themselves.

79. Plaintiffs have been harmed by the actions of Defendants because USDA and Secretary Perdue have prevented California from providing the Plaintiffs and the Proposed Class with emergency nutrition assistance as Congress intended.

THIRD CLAIM FOR RELIEF
Declaratory Relief Pursuant to 28 U.S.C. §§ 2201-02
Against Defendants USDA and Perdue

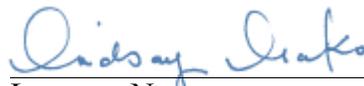
80. Plaintiffs re-allege and incorporate by reference the allegations in the preceding paragraphs as if set forth fully herein.

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6. Grant such other and further relief as the Court may deem just and proper.

Dated: May 21, 2020

Respectfully submitted,



LINDSAY NAKO
Impact Fund



ALEXANDER PRIETO
Western Center on Law and Poverty

Attorneys for Plaintiffs and the Plaintiff Class