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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

ENDORSED
FILED
ALAMEDA COUNTY

JAN 08 2015

CLERK OF THE SUPERIOR COURT
By Jonathan P. [Signature] Deputy

BY FAX

RG15754049

VELMA M., K.S., ROSA DELGADILLO,)	CASE NO.
and MARIA L.,)	
)	VERIFIED PETITION FOR WRIT OF
)	MANDATE (CODE CIV. PROC. §§
Petitioners/Plaintiffs,)	1085, 1094.5, AND WELF. & INST.
)	CODE § 10962); COMPLAINT FOR
v.)	DECLARATORY RELIEF)
)	
CALIFORNIA DEPARTMENT OF)	
SOCIAL SERVICES and WILL)	
LIGHTBOURNE, in his official capacity as)	
director of California Department of Social)	
Services,)	
)	
Respondents/Defendants.)	
)	
)	
)	
)	

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1 **I. INTRODUCTION**

2 1. Petitioner Velma M. has suffered extreme physical, mental and emotional abuse
3 at the hands of her former partner. Ms. M. has escaped her abuser, and her family is now
4 receiving cash assistance for two of her five children from the California Work Opportunity and
5 Responsibility To Kids (CalWORKs) program. Her family is receiving a CalWORKs grant that
6 is so low that she and her children have often been separated, homeless, and in danger of
7 returning to an abusive situation in order to survive. Ms. M.’s three youngest children would
8 qualify for CalWORKs cash assistance, but they have been excluded from aid under the
9 Maximum Family Grant (MFG) rule, which denies aid to children conceived and born while
10 their parents are receiving cash aid. The rule is not applicable when a child is born as a result of
11 rape or incest, and can be waived when the parent or child(ren) are domestic abuse survivors.

12 2. Ms. M. is a domestic abuse survivor and experiencing extreme financial hardship
13 that places her family at risk of harm. A higher grant amount would help her family safely
14 escape a domestic abuse situation. Because Ms. M. and her children meet the waiver criteria
15 they requested a waiver of the MFG rule.

16 3. Respondents California Department of Social Services (CDSS) and its Director,
17 Will Lightbourne, determined she was ineligible and refused her request.

18 4. Ms. M. is not alone. The American Bar Association reports that “studies
19 consistently show that at least 50 to 60 percent of women receiving public benefits have
20 experienced physical abuse by an intimate partner at some point during their adult lives.”
21 http://www.americanbar.org/groups/domestic_violence/resources/statistics.html. Public
22 assistance often plays a crucial role in the ability of domestic abuse survivors, like Ms. M., in
23 escaping their abusive circumstances by providing resources necessary for securing economic
24 stability essential to rebuilding a life after abuse and keeping their family safe from an abuser.

25 5. In recognition of this, the Legislature enacted special provisions in the state’s
26 CalWORKs program to ensure that domestic abuse survivors in need of public assistance are not
27 faced with administrative rules that penalize them, place them at further risk of abuse, or
28 encourage them to remain with the abuser. Welf. & Inst. Code § 11495. California law allows
any domestic abuse survivor applying for or receiving CalWORKs aid to have program rules

1 waived when the rule unfairly penalizes the family, encourages them to remain with the abuser,
2 or places the family at further risk of harm. Welf. & Inst. § Code 11495.15.

3 6. Respondents, however, have unlawfully narrowed state law to limit eligibility for
4 waivers to a small group of public assistance recipients who are required to, but unable to work
5 or participate in the state's welfare-to-work program due to domestic abuse. All other domestic
6 abuse survivors, comprising hundreds of thousands of parents and children on public assistance,
7 are ineligible for waivers of harmful program rules.

8 7. Parents with disabilities preventing them from working and undocumented
9 parents and their children are expressly prohibited from getting waivers, regardless of the impact
10 on their safety or the safety of their children, solely because they are not required and are unable
11 to work. Any abuse survivor who is working or participating in an education or training program
12 is also ineligible simply because she is still capable of working. To be eligible for a waiver,
13 abuse survivors must stop working or participating in their activities. Children are also not
14 eligible for waivers solely because they and their parents are not required or eligible to
15 participate in the work program. Any survivor who manages to get a waiver will lose it the
16 moment that he or she is able to work or participate in the work program. Contrary to the law,
17 there is no consideration given to whether application of a program rule would unfairly penalize
18 or encourage the family to return to the abuser, nor whether the rule would place the survivor or
19 her family at further risk of harm.

20 8. Petitioners bring this action on their own behalf and because they are beneficially
21 interested in CDSS's administration of the program for all of those other survivors. For many
22 domestic abuse survivors like petitioners, deciding whether or not to leave an abusive partner
23 often forces survivors to decide whether to subject their children to a life with no place to go,
24 few resources and virtually nonexistent economic security. The abusive relationship may
25 involve the abuser limiting the survivor's access to economic resources and employment
26 opportunities. Many leave in the middle of the night with nothing but the clothes on their backs,
27 and must entirely rebuild their lives and support networks. The National Network to End
28 Domestic Violence reports that without help, these parents and their children may end up
homeless, living on the street, in cars, or moving from place to place.

1 9. For many survivors, concerns over their ability to prevent hunger or
2 homelessness for themselves and their children are a significant reason for staying in or returning
3 to an abusive relationship.

4 10. Petitioners seek a writ of mandate under Code of Civil Procedure §§ 1085 and
5 1094.5, along with injunctive and declaratory relief, to stop CDSS and Director Lightbourne
6 from unlawfully misinterpreting the laws in place that would allow petitioners and others like
7 them to receive the assistance necessary to survive outside of abusive situations.

8 **II. PARTIES**

9 11. Petitioner Velma M. is a domestic abuse survivor receiving CalWORKs cash
10 assistance on behalf of two of her five children in San Joaquin County.

11 12. Petitioner K. S. is a disabled domestic abuse survivor receiving CalWORKs aid
12 for one of her two children in Alameda County. She is receiving a cash assistance amount that is
13 too low to allow her to adequately care for her children. Although respondents do not dispute
14 that she is an abuse survivor, they have denied her request for waiver of the CalWORKs MFG
15 rule solely because Ms. K. S. is not required and unable to participate in welfare-to-work due to
16 her disability.

17 13. Petitioner Rosa Delgadillo is a single mother and survivor of domestic abuse who
18 receives CalWORKs aid for two of her three children from the Los Angeles County Department
19 of Social Services (LADPSS). Like the other petitioners, she is unable to adequately care and
20 provide for her children, including her recently born 12-week old daughter, because the
21 CalWORKs grant she receives is reduced by application of the MFG rule. Although respondents
22 do not dispute that Ms. Delgadillo was a victim of domestic violence and has only recently left
23 her abusive relationship, they have denied her request for a domestic violence waiver of the
24 MFG rule – at a crucial time when she is struggling to establish a stable home free from abuse
25 for herself and her children. Respondents’ sole basis for denying Ms. Delgadillo’s request for a
26 waiver that would allow her otherwise CalWORKs-eligible, United States citizen child to receive
27 benefits is that Ms. Delgadillo’s immigration status renders her personally ineligible to
28 participate in the CalWORKs welfare-to-work program.

1 14. Petitioner María L. is a domestic abuse survivor struggling to raise her 13-year-
2 old U.S. citizen daughter, alone in Los Angeles County. Although María lacks the resources to
3 adequately provide for her daughter’s basic needs, and she continues to suffer the effects of the
4 domestic violence, respondents have refused to provide any assistance because María’s older
5 daughter was receiving aid when her 13-year old was born. When María asked for an MFG
6 waiver because of the domestic abuse, respondents again refused, on the grounds that María is
7 undocumented and cannot participate in welfare-to-work. As such, respondent’s policy unjustly
8 punishes Ms. L.’s citizen daughter by treating her differently from other similarly situated U.S.
9 citizens, and denying her aid solely because of her mother’s immigration status.

10 15. Respondent CDSS is the single state agency responsible for adopting regulations
11 and policies for the CalWORKs program, including policies for waiving CalWORKS program
12 rules for past and present survivors of domestic abuse. Welf. & Inst. Code §§ 10553, 10554,
13 11495.1.

14 16. Respondent Will Lightbourne is the director of CDSS. As such, he is responsible
15 for the lawful operation of the agency. Welf. & Inst. Code § 10553. Director Lightbourne is
16 sued in his official capacity.

17 **III. APPLICATION TO PROCEED UNDER FICTITIOUS NAMES**

18 17. Petitioners Velma M., K. S., and María L. request permission from the Court to
19 proceed in this action under fictitious names so as to protect themselves and their children from
20 personal harm. Petitioners desire to protect their right to privacy pursuant to Article I, section 1
21 of the Constitution of the State of California. This application is based on the allegations filed
22 herein, and such further evidence as may be presented at the hearing on this matter. Petitioners
23 are victims of domestic abuse and fear reprisals from their former partners. Petitioners have
24 notified defendants of their true identity and will provide their names to the Court if needed.

25 **IV. STATUTORY BACKGROUND**

26 18. As part of federal welfare reform in 1996, Congress replaced the federal welfare
27 program, Aid to Families With Dependent Children, with a federal block grant to states. The
28 new federal welfare program is known as Temporary Aid to Needy Families (TANF), and is
called CalWORKs in California. CalWORKs provides temporary cash assistance to very low-

1 income families with minor children. Welf. & Inst. Code § 11200 *et. seq.*. Under TANF, each
2 state gets to design its own welfare program, subject to a few federal requirements. 42 U.S.C. §
3 601(a). When TANF was enacted, Congress acknowledged that there are special challenges
4 facing survivors of domestic abuse and encouraged states to take action to serve them.

5 19. Under TANF, each state chief executive officer may certify that his/her state has
6 adopted standards and procedures for serving domestic abuse survivors, known as a Family
7 Violence Option. 42 U.S.C. § 602 (a)(7). The Family Violence Option allows states to certify
8 that the state will “waive, pursuant to a determination of good cause, other program requirements
9 such as time limits (for so long as necessary) for individuals receiving assistance, residency
10 requirements, child support cooperation requirements, and family cap provisions, in cases where
11 compliance with such requirements would make it more difficult for individuals receiving
12 assistance under this part to escape domestic violence or unfairly penalize such individuals who
13 are or have been victimized by such violence, or individuals who are at risk of further domestic
14 violence.” 42 U.S.C. § 602(a)(7)(A)(iii).

15 20. California responded to federal encouragement and adopted the TANF Family
16 Violence Option as part of the CalWORKs program. Welf. & Inst. Code § 11495.

17 21. When enacting the provision, California’s Legislature expressed its intent, stating:

18 “By adopting [the family violence] provision, the Legislature recognizes that
19 some individuals who may need public assistance have been or are victims of abuse, and
20 intends to ensure that applicants and recipients who are past or present victims of abuse
21 are not placed at further risk or unfairly penalized by CalWORKs requirements and
22 procedures. The Legislature intends that, in implementing this article, program
23 requirements not be created or applied in such a way as to encourage a victim to remain
24 with the abuser. It is also the intent of the Legislature that CalWORKs recipients
25 participate in welfare-to-work activities, to the full extent of their abilities, including
26 participation in counseling and treatment programs, as appropriate, to enable the recipient
27 to obtain unsubsidized employment and move towards self-sufficiency.”

28 Welf. & Inst. Code § 11495.

29 22. Consistent with the TANF Family Violence Option and California’s legislative
30 intent, the state statute provides that “[a] county may waive a [CalWORKs] program requirement
31 for a recipient who has been identified as a past or present victim of abuse when it has been

1 determined that good cause exists pursuant to paragraph (2) of subdivision (f) of Section
2 11320.3. . .” Welf. & Inst. Code § 11495.15.

3 Section 11320.3 outlines the obligations of aided adults to participate in the state’s work
4 program, called Welfare-to-Work (WTW), as a condition of continuing to receive aid for
5 themselves.

6 The relevant section provides:

7 (f) A recipient shall be excused from participation [in the work program] for good cause
8 when the county has determined there is a condition or other circumstance that
9 temporarily prevents or significantly impairs the recipient’s ability to be regularly
10 employed or to participate in welfare-to-work activities. . . . Conditions that may be
11 considered good cause include, but are not limited to, the following . . .

12 (2)“... In accordance with Article 7.5 (commencing with Section 11495), the applicant or
13 recipient is a victim of domestic violence, but only if participation under this article is
14 detrimental to or unfairly penalizes that individual or his or her family.

15 23. The Legislature has provided a non-exhaustive list of “..[r]equirements that may
16 be waived include[ing,] time limits on receipt of assistance, work requirements, educational
17 requirements, paternity establishment and child support cooperation requirements.” Welf. &
18 Inst. Code § 11495.1(a)(3). The MFG rule is one of the rules that can be waived for domestic
19 violence survivors pursuant to this provision. MPP § 42-715.512.

20 24. In 2010, then Chief Executive Officer of California, Governor Arnold
21 Schwarzenegger, sent a TANF Certification to the Secretary of the U.S. Department of Health
22 and Human Services, attesting that California’s CalWORKs program would “provide waivers,
23 pursuant to a determination of good cause, of normal program requirements to individuals for so
24 long as necessary in cases where compliance would make it more difficult to for such individuals
25 to escape domestic violence or unfairly penalize those who are or have been victimized by such
26 violence or who are at risk of further violence.” Certification, State Plan for Provision of Public
27 Assistance under The Personal Responsibility and Work Opportunity Reconciliation Act of
28 1996, Arnold Schwarzenegger, December 28, 2010, pp. 5.

29 25. On December 19, 2013, Chief Executive Officer, Governor Edmund G. Brown,
30 Jr., again certified that California would continue to administer its program consistent with the
31 state Family Violence Option and grant waivers of program rules when they unfairly penalize or
32 place individuals at further risk of abuse, or make it more difficult to escape domestic abuse.

1 Certification, State Plan for Provision of Public Assistance under The Personal Responsibility
2 and Work Opportunity Reconciliation Act of 1996, Edmund G. Brown, Jr., pp. 3-4,
3 http://www.cdss.ca.gov/cdssweb/entres/pdf/ACF_TANFstatePlan.pdf.

4 **V. THE CHALLENGE**

5 **A. Statutory Implementation**

6 26. Respondents' regulations and policies, however, unlawfully narrow the scope of
7 the statute in several ways, resulting in unlawful denials of waivers of CalWORKs program rules
8 to eligible domestic abuse survivors and their families.

9 27. First, respondents narrow the statute by eliminating the inquiry into whether the
10 program rule encourages the survivor to remain with the abuser or is detrimental to or unfairly
11 penalizes the applicant, recipient or his/her family. CDSS All County Letter (ACL) No. 14-59,
12 pp. 5 (August 21, 2014), [http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acl/2014/14-](http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acl/2014/14-59.pdf)
13 [59.pdf](http://www.dss.cahwnet.gov/lettersnotices/EntRes/getinfo/acl/2014/14-59.pdf). CDSS regulations provide that non-welfare-to-work program rules can be waived only
14 for as long as domestic abuse prevents the individual from obtaining employment or
15 participating in welfare-to-work activities. CDSS Manual of Policies and Procedures (MPP) §
16 42-713.221, ACL No. 14-59, pp. 4. In other words, respondents categorically deny statutorily
17 available waivers of CalWORKs program rules for domestic violence victims who are not
18 prevented from participating in welfare-to-work activities, without any inquiry into the harm or
19 risk created by application of the rule in question -- even when that rule is one entirely
20 unconnected to welfare-to-work activities, such as the MFG rule.

21 28. Section 11495 and paragraph (2) of §11320.3(f) indicates that the Legislature
22 wanted program rules waived when the rule unfairly penalizes or places the survivor at further
23 risk of harm, not just when domestic abuse impairs employment or participation in welfare-to-
24 work activities.

25 29. Second, respondents unlawfully limit program waivers to a small subset of
26 domestic abuse survivors. Respondents limit waivers to CalWORKs recipients who are required
27 to participate in welfare-to-work activities. ACL 14-59, pp. 5-6. Of that group, waivers are
28 further limited to those who may be required to participate in activities, but are unable to do so
because of the domestic abuse. Waivers are denied to domestic abuse survivors who are not

1 required to participate in CalWORKs WTW, are working, or unable to participate in work
2 activities due to a reason other than domestic abuse. *Id.*

3 30. Respondents have categorically excluded individuals in protected classes and
4 their children from waivers. “Undocumented or ineligible adults (i.e. Supplemental Security
5 Income (SSI) recipient, non-needy caregiver relative, etc.) are not subject to program
6 requirements and are not required [participate in] CalWORKs WTW activities. Therefore, they
7 are ineligible for temporary domestic abuse waivers.” ACL 14-59, pp. 5-6. Similarly,
8 individuals with a physical and/or mental disability that interferes with their ability to work are
9 not required to participate in CalWORKs WTW activities, and thus not eligible for a waiver.
10 ACL No. 14-59, pp. 5-6.

11 31. Children are not required or allowed to participate in WTW or to work without
12 violating child labor laws, and therefore are not eligible for waivers of program rules. Welf. &
13 Inst. Code § 11320.3 (b). Petitioners’ children are denied critically needed waivers of the MFG
14 rule solely because their parents are ineligible for WTW or not working. Children in similar
15 circumstances, however, are given waivers, simply because their parents are subject to the WTW
16 program.

17 32. Over a hundred thousand CalWORKs applicants and recipients are not required to
18 participate in WTW activities. None of those individuals would be eligible for a waiver, even if
19 applying the rule put them or their family in danger.

20 33. Finally, contrary to CalWORKs law that permits the rule to be waived “for so
21 long as necessary,” the respondents limit retroactive waivers of program rules for only up to
22 three months prior to the request. ACL 14-59, pp. 5. The three month limit contravenes the
23 statutory language permitting waivers until they are no longer needed.

24 **B. The policy impacts individuals with disabilities and undocumented**
25 **individuals and their children on the basis of the parent’s disability or**
26 **national origin.**

27 34. Many domestic abuse survivors have mental or physical disabilities that prevent
28 them from working or participating in WTW activities. In 2014, tens of thousands of
CalWORKs parents have disabling conditions that impair their ability to work, which means that
they are not required to participate in Welfare-to-Work. Welf. & Inst. Code § 11320.3 (b)(3)(A).

1 Many are also undocumented and receiving aid on behalf of their citizen children. These
2 undocumented parents are ineligible for aid for themselves and are thus not required to
3 participate in the work program.

4 35. Respondents categorically deny domestic abuse waivers to disabled survivors
5 who are not required to participate in Welfare-to-Work or receiving SSI benefits, and parents
6 without immigration documentation. ACL 14-59, pp. 5-6. These parents are subject to many of
7 the same CalWORKs program rules as parents eligible for aid and participating in WTW.

8 36. Some of the rules require domestic abuse survivors to interact with the people
9 who abused them and, often, have threatened to abuse them again. One such program rule
10 provides that all families receiving CalWORKs aid must ensure and provide verification that
11 their child(ren) get medical checkups regularly and that their required immunizations are current.
12 Welf. & Inst. Code § 11265.8. They must also prove that each child receiving CalWORKs
13 attends school regularly, unless the child has a high school diploma or GED. Welf. & Inst. Code
14 § 11325.3. Although all families are subject to the rule, parents receiving SSI benefits or who are
15 undocumented are expressly excluded from waivers of those rules solely because of their
16 disabling condition or national origin.

17 37. In May 2014, petitioners' counsel demanded that respondents comply with state
18 law and modify the waiver policy to eliminate the WTW or work requirement for domestic abuse
19 waivers for all individuals, including as a reasonable accommodation for individuals with
20 disabilities preventing them from working. Respondents refused.

21 38. Respondents' failure to modify the domestic abuse waiver policy as a reasonable
22 accommodation to individuals with disabilities unlawfully prevents individuals with disabilities
23 from accessing CalWORKs programs and benefits.

24 **VI. STATEMENT OF FACTS**

25 **A. Petitioner Velma M.**

26 39. Ms. Velma M. is a past victim of domestic violence which occurred between
27 approximately January 2013 and August 2013. Since escaping the domestic abuse perpetrated by
28 her then domestic partner, Ms. M. was diagnosed with post-traumatic stress disorder (PTSD).

1 She continues to live in fear that the former partner may locate her and make good on his threats
2 of violence and continued abuse.

3 40. In order to escape from him, she fled her home in public housing and did not take
4 any personal belongings. She was too afraid to return home because she thought he would return
5 and hurt her. Afraid she would “end up in the hospital,” she filed a police report and requested a
6 permanent restraining order for her family. This order was granted, and will remain in place until
7 2018.

8 41. During this time, she received CalWORKs for only one of her four children at
9 three hundred dollars (\$300) per month since her three other children were excluded from aid
10 under the MFG rule. This was the family’s only source of income.

11 42. When she left her domestic partner, she was pregnant, had no money, and was on
12 the run with her four children. She contacted the San Joaquin County Human Services Agency
13 and reported that she and her children were on the run from her abuser and homeless. She was
14 given limited homeless assistance, and provided an application to request a domestic abuse
15 waiver which she immediately submitted.

16 43. After her homeless assistance ran out, Ms. M. became homeless again because
17 she could not afford to pay for housing and she was turned away from the only shelter in
18 Stockton that served families with children because they were at capacity. Worried that her
19 abuser would find them, she slept in her car with her children. She stayed up at night so she
20 could keep watch and protect her children. In order to minimize harm to her children, she placed
21 them in the care of a family member in San Francisco—about 120 miles away from her home in
22 Stockton.

23 44. Desperate for funds to reunite with her children, she contacted the HSA and
24 requested waiver of the MFG rule. The HSA denied Ms. M.’s domestic violence waiver
25 application on September 9, 2013, and, after amending the denial notice, denied the waiver again
26 on October 16, 2013. Ms. M. timely appealed the HSA’s denial notice and attended a State
27 Hearing on February 13, 2014. At the hearing, staff of the HSA asserted that the County denied
28 Ms. M.’s waiver request because she was ineligible for aid, and her abuser did not prevent her
from participating in the CalWORKs WTW. Because she was unable to pay unsubsidized rent

1 with the money she received from her CalWORKs grant, she and her children were homeless for
2 approximately seven months.

3 45. Respondents' decision, issued on June 25, 2014, denies Ms. M.'s request for a
4 waiver of the MFG rule for her children. Even though respondents found that she was a
5 domestic violence victim under MPP §42-701-2(d)(3)&(4), Welf. & Inst. Code §11495.12, and
6 42 USC §602(a)(7)(B), they denied her waiver application solely on the grounds that she is
7 ineligible for CalWORKs for herself and is not required to participate in WTW. Respondents
8 did not determine whether she, as a victim of abuse, was placed at further risk or unfairly
9 penalized, or whether the rule was detrimental to her or her children. Ms. M. timely submitted a
10 request for a re-hearing to respondents on July 25, 2014. Her request for a re-hearing is currently
11 pending.

12 **B. Petitioner K. S.**

13 46. Petitioner K. S. has suffered long term abuse from her husband, the father of her
14 two children.

15 47. He would rape, hit her in the head, punch and kick her. Sometimes he would
16 throw her to the ground. The abuse was so extensive that six months after the birth of her first
17 child, her son, K. S. began to have suicidal thoughts. The abuse had become so bad that she felt
18 she did not want to live anymore. She tried to stab herself with a knife. Her doctor saw her
19 stab marks and referred her to the Asian Community Mental Health Services for a psychological
20 evaluation. Staff at the community agency were the first to tell Ms. K. S. that what her husband
21 was doing to her was considered abuse.

22 48. K. S.'s daughter was born on October 1999 while the family was receiving
23 CalWORKs benefits.

24 49. From her daughter's birth to 2009, her husband continued to control their finances
25 and the family's welfare benefits were under his name. There were times when he hurt her so
26 badly that her eyes swelled shut. In 2003, he choked her after she said that they should divorce
27 and only stopped when she threatened to call the police. In 2009, her husband left his family.
28 Two weeks after he abandoned K. S. and her children, she called the police after he tried to enter
the apartment. By the time the police arrived, her husband had already run away. Her husband

1 sneaked into the apartment later that night and tried to rape her. She was able to call the police
2 again, but her husband escaped before they arrived. K. S. changed the locks and received help to
3 file a restraining order against him.

4 50. Even though she is glad that her abuser is out of her and her family's lives, she
5 has been struggling to keep herself and children from hunger and homelessness. There are times
6 that she cannot pay her utilities or provide for her children's subsistence needs.

7 51. In order to obtain a higher cash assistance amount, K. S. applied for, and was
8 denied, a domestic abuse waiver of the MFG rule, for her daughter. K. S. filed a timely request
9 for an administrative hearing to challenge the decision. At the hearing, K. S. argued that
10 respondents' policy narrowly constricted the statute and requested modification of the rule due to
11 her disability. Although respondents acknowledged that her daughter was conceived as a result
12 of domestic abuse, on January 15, 2014, respondents issued a hearing decision sustaining the
13 denial of her request for a domestic abuse waiver of the MFG rule. The waiver request was
14 denied solely because disabled SSI recipients like K. S. are ineligible for the WTW program.
15 Respondents also denied her request to modify the rule for individuals with a disability, like
16 herself, when the disability prevents her from working.

17 **C. Petitioner Delgado**

18 52. Ms. Delgado is the mother of three daughters, the youngest 12 weeks old, and
19 all of whom are United States citizens. Ms. Delgado currently receives CalWORKs benefits
20 for her oldest and youngest daughters. The oldest daughter is exempt from the MFG rule
21 because she was conceived as a result of sexual assault. Because of the MFG rule, Ms.
22 Delgado does not receive any assistance for her second daughter's needs.

23 53. Ms. Delgado has only recently escaped an abusive relationship with the father
24 of her two youngest children, whom she lived with for six years. During this time, he abused her
25 verbally, physically, and sexually. When she attempted to leave her abuser, he threatened her
26 with a knife and told her he would kill her if she left or said anything to the police. Ms.
27 Delgado lived in fear, feeling unable to make her abuser leave.

28 54. On or about February 28th, 2014, while pregnant with her youngest child, Ms.
Delgado finally asked her abuser to leave her house because of his consistent abusive behavior

1 and drug use. He left, but returned in the middle of the night, entering through a window. He
2 threw her against the wall and hit her in the head with his fist, and threatened to take Ms.
3 Delgadillo's children to Mexico. After this incident, Ms. Delgadillo's abuser continued to call
4 her and come to the house, screaming and threatening to kill her and take the children.

5 55. Because she feared for her and her daughters' safety, Ms. Delgadillo sought a
6 restraining order on April 4, 2014; a permanent restraining order was granted on July 10, 2014.

7 56. Since asking her abuser to leave, Ms. Delgadillo has struggled financially,
8 particularly after the birth of her youngest daughter. She has fallen behind in her rent, and faces
9 the risk of eviction and homelessness, which would place her at greater risk of further abuse.

10 57. On or about August 13, 2014, Ms. Delgadillo requested a waiver of the MFG rule
11 to allow her to receive benefits for her second daughter. Los Angeles County denied the request,
12 based solely on Ms. Delgadillo's immigration status, even though the beneficiary of the waiver
13 would have been her daughter, a United States citizen.

14 58. Ms. Delgadillo appealed the decision, and a hearing was held on October 30,
15 2014. Respondents found that Ms. Delgadillo is a credible witness and a victim of domestic
16 abuse. Nonetheless, on December 3, 2014, respondents upheld the decision and denied benefits
17 for her daughter, again based solely on Ms. Delgadillo's immigration status.

18 **General Allegations**

19 **Petition for Writ of Mandate**

20 **(Code Civ. Proc. § 1085)**

21 59. Petitioners re-allege and incorporate by reference each allegation set forth above
22 as though fully set forth herein.

23 60. Petitioners are entitled to a writ of mandate, pursuant to Code Civil Procedure §
24 1085, in that respondents have a clear and present ministerial duty to administer the CalWORKs
25 program, and to develop the protocol for waiving program requirements for domestic abuse
26 survivors in accordance with requirements of law.

27 61. At all times, respondents have had and continue to have the legal ability to
28 perform their above mentioned duties but have failed to do so as set forth in the claims for relief
above.

1 62. Unless compelled by this Court to perform those acts and duties set forth above,
2 and to refrain from those acts as required by law, the respondents will continue to ignore those
3 duties and to violate the law.

4 63. Petitioners have a beneficial interest in respondents' performance of their legal
5 duties in that they are domestic abuse survivors, they and their children are subject to
6 respondents' unlawful practices, and may need to seek assistance from the program in the future.
7 Petitioner Velma M. is interested as a citizen in the respondents' performance of their legal
8 duties.

9 64. Petitioners have no plain, speedy, or adequate remedy, other than the relief here
10 sought.

11 65. Petitioners seek a writ of mandate to compel the respondents to immediately
12 comply with its mandatory statutory duties and to refrain from violating statutory prohibitions, as
13 set forth herein.

14 66. The writ of mandate is petitioners' sole and exclusive remedy for review of
15 respondents' actions, and there are no alternative remedies of law.

16 **General Allegations**

17 **Complaint**

18 **(Injunctive and Declaratory Relief)**

19 67. Petitioners reallege and incorporate by reference each and every allegation
20 contained within the paragraphs above as fully set forth herein.

21 68. Unless restrained and enjoined by this Court, respondents will continue to deny
22 applicant and recipients domestic abuse waivers when they are working, or not required or
23 unable to participate in work or WTW activities in violation of Welf. & Inst. Code §§§10000,
24 10500, 11495.15, the Equal Protection clause of the California Constitution, Government Code §
25 11135, Section 504, and the ADA. Because respondents conduct is ongoing and continuous,
26 injunctive relief and declaratory relief are appropriate.

27 69. As a result of respondents' unlawful conduct, petitioners are likely to suffer
28 irreparable harm, and thus immediate relief is appropriate.

1 70. Petitioners are entitled to declaratory relief against all respondents under Code of
2 Civil Procedure § 1060 in that respondents’ domestic abuse waiver policy as set forth above
3 violates the Welfare & Institutions Code, the Equal Protection clause of the California
4 Constitution, Government Code § 11135, Section 504, and the ADA, and lawfully enacted
5 regulations. Respondents contend to the contrary.

6 **First Cause of Action**

7 **(Respondents’ policy unlawfully restricts domestic abuse waivers in violation of Welf. &**
8 **Inst. Code §§§ 10000, 11000, 11495, and 11495.15)**

9 71. Petitioners reallege and incorporate by reference each and every allegation in
10 above paragraphs as though fully set forth herein.

11 72. Petitioners are entitled to a writ of mandate, pursuant to Code of Civil Procedure
12 §1085, in that the respondents have a clear, present, and ministerial duty, pursuant to Welfare &
13 Institutions Code §§ 10554 and 11495.1, to develop and implement CalWORKs guidelines,
14 including the waiver of program rules for past and present survivors of domestic abuse.

15 73. Under state law, the respondents have a duty to waive CalWORKs program rules
16 for past and present survivors of domestic abuse and their children when the program rule would
17 prevent them from escaping abuse, place them at further risk of harm, or that would otherwise
18 unfairly penalize them. Welf. & Inst. Code §§ 11495.1, 11495.15. For all of the reasons set
19 forth above, respondents’ policy is unlawful.

20 74. Respondents’ policy is contrary to and frustrates the Legislature’s intent that
21 program rules should not be applied in a way to encourage abuse survivors to remain with the
22 abuser, unfairly penalize or place the survivor at further risk of harm. Welf. & Inst. Code §
23 11495. It is also contrary to and narrowly constricts the statutory language that permits waivers
24 when rules would have the effect of unfairly penalizing, encouraging the return to abusers, or
25 placing survivors or their families at risk of harm. *Id.* at § 11495.15. The policy, therefore,
26 misconstrues and frustrates the adoption of the Family Violence Option.

27 75. The respondents’ challenged policy is contrary to CalWORKs’ stated purpose “to
28 provide protection, care, and assistance to the people of the state in need thereof” (Welf. &
Inst.Code, § 10000), and ‘to provide timely and appropriate services to assist individuals to

1 develop or use whatever capacity they can maintain or achieve for self-care or self-support”
2 (Welf. & Inst.Code, § 10001, subd. (a)-(b)).

3 76. Respondents’ policy does not fulfill the aims of the program to ensure that aid and
4 services “shall be ... provided promptly and humanely, with due regard for the preservation of
5 family life, and without discrimination on account of ancestry, marital status, political affiliation,
6 or any characteristic listed or defined in Section 11135 of the Government Code.” Welf. & Inst.
7 Code § 10000.

8 77. By limiting domestic abuse waivers of program rules to individuals eligible for
9 and unable to participate in the WTW program due to domestic abuse, respondents’ policy also
10 violates the statutory mandate that CalWORKs laws “shall be fairly and equitably construed to
11 effect the stated objects and purposes of the program.” Welf. & Inst. Code § 11000.

12 78. It is not fair or equitable to treat similarly situated individuals differently for
13 reasons unrelated to the aims of the program, or to deny children the benefit of a program rule
14 that is available to them as applicants and recipients of the program. The respondents’ actions,
15 therefore, are arbitrary and capricious.

16 **Second Cause of Action**

17 **(Respondents’ domestic violence waiver policy discriminates against individuals with**
18 **disabilities, and denies meaningful access to CalWORKs benefits for survivors with**
19 **disabilities in violation of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et**
20 **seq.; Americans with Disabilities Act (ADA) , 42 U.S.C. § 12132)**

21 79. Plaintiffs reallege and incorporate herein all previously alleged paragraphs of the
22 petition.

23 80. Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794,
24 provides that:

25 [N]o otherwise qualified individual with a disability in the United States ... shall, solely
26 by reason of his or her disability, be excluded from participation in, be denied the
27 benefits of, or be subjected to discrimination under any program or activity receiving
28 Federal financial assistance ...

81. The anti-discrimination provision of Title II of the ADA has a similar provision
providing: “Subject to the provisions of this subchapter, no qualified individual with a disability

1 shall, by reason of such disability, be excluded from participation in or be denied the benefits of
2 the services, programs, or activities of a public entity, or be subjected to discrimination by any
3 such entity.” 42 U.S.C. § 12132.

4 82. Petitioners Velma M. and K. S. are “qualified individuals with a disability” within
5 the meaning of Section 504 and Title II of the ADA. 28 C.F.R. § 41.31(a); 45 C.F.R. § 84.3(j).

6 83. CDSS is a public entity receiving federal financial assistance to implement,
7 administer, and “supervise every phase of the administration” of the CalWORKs program. 42
8 U.S.C. § 12131(1)(B), 29 U.S.C. § 794(b), and Welf. & Inst. Code § 10600.

9 84. Respondents’ domestic abuse waiver policy, procedures and practices exclude
10 persons with disabilities from the benefits of the CalWORKs program and discriminate against
11 them on account of their disabilities, in violation of Section 504 and Title II of the ADA and the
12 regulations promulgated pursuant thereto. Further, Respondents systematically fails and refuse
13 to offer reasonable modifications and accommodations of the policy for individuals with
14 disabilities.

15 85. Respondents’ policies, procedures and practices have resulted in, or threaten to
16 result in, discrimination against disabled individuals in their unlawful exclusion from
17 participation in, and denial of CalWORKs benefits.

18 86. Individual petitioners have been injured by respondents’ conduct violating
19 Section 504 and ADA. Solely by reason of their disabilities, petitioners have been deprived of
20 CalWORKs and related domestic abuse benefits to which they were entitled and subject to
21 unlawful and discriminatory barriers in their efforts to secure and maintain CalWORKs benefits.

22 87. Respondents’ conduct constitutes an ongoing and continuous violation of the
23 Rehabilitation Act and ADA and unless restrained from doing so, respondents will continue to
24 violate Section 504 and Title II. This conduct, unless enjoined, will continue to inflict injuries
25 for which petitioners have no adequate remedy at law.

1 **Third Cause of Action**

2 **(Respondents' policy violates the anti-discrimination provisions and reasonable**
3 **accommodation requirements of Government Code § 11135, Welf. and Inst. Code § 10000.)**

4 88. Petitioners reallege and incorporate herein all previously alleged paragraphs of the
5 complaint.

6 89. Government Code § 11135 and the regulations promulgated thereunder prohibit
7 discrimination against persons with disabilities by recipients of state funding, and provides in
8 pertinent part, that:

9 No person in the State of California shall, on the basis of . . . disability, be unlawfully
10 denied full and equal access to the benefits of, or be unlawfully subjected to
11 discrimination under, any program or activity that is conducted, operated or administered
12 by the state or any state agency, is funded directly by the state, or receives any financial
13 assistance from the state.

13 90. Welfare and Institutions Code § 10000 requires respondents to administer the
14 CalWORKs program without discrimination against individuals because of characteristics listed
15 in Government Code § 11135.

16 91. CalWORKs is a program or activity conducted by the state, through respondent
17 CDSS, a state agency.

18 92. Respondents' discriminatory policies and practices deny individuals with
19 disabilities full and equal access to the full benefits and protections of domestic violence waivers
20 of CalWORKs program requirements in violation of Government Code § 11135 and the
21 regulations promulgated thereunder.

22 93. Respondents violate and have violated Government Code § 11135(b) through
23 their conduct alleged herein.

24 94. Petitioners have been injured by respondents' conduct violating Government
25 Code §11135. They have been deprived of CalWORKs benefits to which they were entitled.
26 Additionally, they have been subject to unlawful and discriminatory barriers in their efforts to
27 secure and maintain CalWORKs benefits.

28 95. Respondents' conduct constitutes an ongoing and continuous violation of
violating Government Code §11135 and unless restrained from doing so, respondents will

1 continue to violate the statute. This conduct, unless enjoined, will continue to inflict injuries for
2 which petitioners have no adequate remedy at law.

3 **Fourth Cause of Action**

4 **(Respondents' policy violates the Equal Protection Clause of the California Constitution)**

5 96. Petitioners re-allege and incorporate by reference each allegation set forth above
6 as though fully set forth herein.

7 97. The California Constitution Article 1, Section 7(a) provides that a person may not
8 be denied equal protection of the law.

9 98. Respondents' policy singles out undocumented parents and their children,
10 providing that they are categorically ineligible for domestic abuse waivers of program rules. The
11 policy denies the citizen children the right to waivers simply because of the national origin of
12 their parents.

13 99. As such, respondents' policy denies equal protection to the children of
14 undocumented parents applying for waivers on their own behalf and that of their children
15 because of the national origin of their parent.

16 **Fifth Cause of Action**

17 **(Petitioner K. S.'s Writ of Administrative Mandamus)**

18 **(Code of Civil Proc. § 1094.5 and Welf. & Inst. Code § 10962 Against Respondent**
19 **Lighbourne)**

20 100. Petitioner K. S. realleges and reincorporates by reference each and every
21 allegation contained in the above paragraphs as though fully set forth herein.

22 101. Petitioner is authorized under Section 10962 to file a petition with this court,
23 under the provisions of Section 1094.5 of the Code of Civil Procedure, praying for a review of
24 the Director's decision.

25 102. Respondent Lighbourne prejudicially abused his discretion and proceeded in a
26 manner not authorized by law in adopting the decision in hearing number 2013266196.
27 Respondent Lighbourne lacked the legal authority to deny Ms. K. S. and her daughter a
28 domestic abuse waiver of the Maximum Family Grant rule solely because Ms. K. S. is disabled.

1 2. Declare that respondents' policy of denying domestic abuse waivers of
2 CalWORKs program rules to past or present survivors of abuse who are employed, not
3 participating in or subject to the welfare-to-work program violate Welfare and Institutions Code
4 §§§10000, 11000, 11495, 11495.1, and 11495.15, the Equal Protection clause of the California
5 Constitution, American with Disabilities Act and Section 504 of the Rehabilitation Act, and
6 Government Code § 11135.

7 3. Issue a writ of mandate under Code of Civil Procedure §1085 ordering
8 respondents to:

9 a. Conform their regulations, policies and practice to reflect California law
10 and not penalize those survivors of domestic violence and their families where parents do not
11 qualify for welfare-to-work, are unable to work, are employed, or are fully participating in
12 welfare-to-work.

13 b. Rescind All County Letter 14-59, and issue written notice to county
14 welfare departments informing them that domestic abuse survivors applying for or receiving
15 CalWORKs benefits are eligible for waivers of program rules when application of the rule places
16 the individuals at further risk of harm, is detrimental to or unfairly penalizes that individual or
17 his or her family;

18 c. Halt the policy of denying waivers to individuals that are not subject to the
19 Welfare-to-Work program or participating in work or the program, and waive rules when
20 application of it places individuals at further risk of harm, is detrimental to or unfairly penalizes
21 the individual or his or her family.

22 d. Halt the policy of limiting retroactive domestic abuse waivers to three
23 months, and issue written notice to county welfare departments to grant waivers for so long as
24 necessary.

25 4. Issue a writ of administrative mandamus rescinding and reversing Petitioner K.
26 S.'s hearing decision, and directing respondent Lightbourne to issue a new decision holding that
27 Alameda County erred in denying Petitioner K.S.'s domestic abuse waiver request due to her
28 inability to work and request to modify the policy as a reasonable accommodation, and ordering

1 the County to rescind the denial, grant Petitioner K. S.'s waiver request, and recalculate her
2 benefits from the date of her request.

3 5. Issue a writ of administrative mandamus rescinding and reversing petitioner
4 Velma M.'s hearing decision, and directing respondent Lightbourne to issue a new decision
5 holding that San Joaquin County erred in denying petitioner M. domestic violence waiver or,
6 grant petitioner M.'s rehearing request.

7 6. Issue a writ of administrative mandamus rescinding and reversing petitioner Rose
8 Delgadillo's hearing decision, and directing respondent Lightbourne to issue a new decision
9 holding that Los Angeles County erred in denying petitioner Delgadillo and her daughter's
10 request for a domestic abuse waiver, and to recalculate her benefits from the date of her request.

11 7. Issue a preliminary and permanent injunction prohibiting respondents, their
12 agents, successors, employees, and those acting in concert therewith from denying CalWORKs
13 applicants and recipients domestic abuse waivers because of their ineligibility or inability to
14 participate in work or the Welfare-to-Work program until such time as respondents can show the
15 Court that all requirements of Welfare and Institutions Code § 11495.15 are being met.

16 8. An order awarding petitioners their reasonable costs and attorneys' fees to the
17 extent permitted by law; and

18 9. Such other relief as the court deems just and proper.

19 DATED: January 6, 2015

Respectfully submitted,

20 WESTERN CENTER ON LAW AND POVERTY
21 CALIFORNIA RURAL LEGAL ASSISTANCE, INC.
22 NEIGHBORHOOD LEGAL SERVICES OF
23 LOS ANGELES COUNTY
24 LEGAL AID FOUNDATION OF LOS ANGELES
25 COALITION OF CALIFORNIA WELFARE RIGHTS
26 ORGANIZATIONS



27 By: _____
28 Antonette Dozier
Attorneys for Petitioners/Plaintiffs

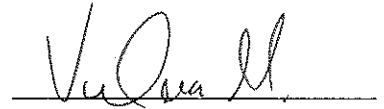
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VERIFICATION

I, Velma M., declare and say:

I am a Plaintiff/Petitioner in the above-entitled action; I have read the foregoing COMPLAINT AND PETITION FOR WRIT OF MANDATE and know the contents thereof. I declare that the same is true of my own knowledge, except as to those matters which are therein stated upon information or belief, are recitations of the law or public records, or which relate to other named Plaintiff/Petitioners, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 8, 2015, at Stockton, California.



Velma M.

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VERIFICATION OF K. S.

I, K. S., am one of the petitioners in the above-entitled action. I have read the petition and verify as true those facts for which I have personal knowledge. As to the facts and other matters in the petition which are not based upon my personal knowledge, I am informed and believe on the grounds alleged that those matters in the petition are, to the best of my knowledge, true.

I declare under the penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed December 5, 2014 in Alameda, California.

K

S

K. S.

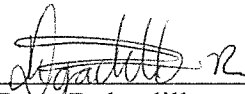
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VERIFICATION

I am a petitioner in this action. I have had the pertinent parts of the foregoing Petition for Writ of Mandate read to me in the Spanish language. The matters stated therein regarding me are true of my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Pacoima, California this 22 day of December 2014.



Rosa Delgadillo

I declare that I am fluent in both English and Spanish and that I have translated from English to Spanish all parts of the petition that pertained to petitioner Rosa Delgadillo to her.

Executed at Pacoima, California this 22 day of December 2014.



Ellie Dehghan

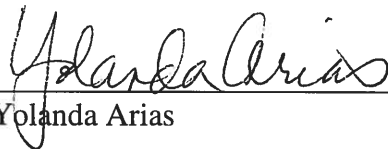
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VERIFICATION OF YOLANDA ARIAS

I, Yolanda Arias, am a Managing Attorney at the Legal Aid Foundation of Los Angeles. I am counsel of record to María L., one of the petitioners in the above-entitled action. This verification is executed by counsel because I am the most knowledgeable of many of the facts of the petition, specifically including the actions of the defendants with regard to my client and others similarly situated. I have read the Verified Petition above and verify as true those facts for which I have personal knowledge. As to the facts and other matters in the petition which are not based upon my personal knowledge, I am informed and believe on the grounds alleged that those matters in the petition are, to the best of my knowledge, true.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed January 7, 2015 in Los Angeles, California.


Yolanda Arias