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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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**CALIFORNIA ALLIANCE OF CHILD AND
FAMILY SERVICES,**

Plaintiff,

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v.

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**CLIFF ALLENBY, Interim Director of the
California Department of Social Services, in his
official capacity; MARY AULT, Deputy Director of
the Children and Family Services Division of the
California Department of Social Services, in her
official capacity,**

Defendants.

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Defendants Cliff Allenby, in his official capacity as interim Director of the California Department of Social Services, and Mary Ault, in her official capacity as Deputy Director of the Children and Family Services Division of the California Department of Social Services, (collectively, Defendants), through their counsel, answer plaintiff's complaint as follows:

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1. Defendants admit the contents of the first unnumbered paragraph of the complaint.

2. Defendants deny the contents of the second unnumbered paragraph of the

C 06-4095 MHP

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

Hearing: None set
Time: None set
Courtroom: 15
Judge: The Honorable
Marilyn H. Patel

1 complaint.

2 3. Defendants have no present information or belief as to the truth of the matters
3 asserted in paragraph 1 of the complaint and its subparagraphs "a" through "e" therein, and on
4 that basis deny their contents.

5 3. Defendants admit the contents of paragraphs 2 and 3 of the complaint.

6 4. Defendants admit that plaintiffs seek the relief described in paragraph 4 of the
7 complaint, and that the court has subject matter jurisdiction as to the relief sought by plaintiff.

8 5. Defendants admit the contents of paragraph 5 of the complaint.

9 6. Defendants admit the contents of paragraph 6 of the complaint.

10 7. Defendants admit that plaintiff is informed and believes that venue is proper in
11 this district as alleged in paragraph 7 of the complaint.

12 8. Defendants admit the contents of paragraph 8 of the complaint.

13 9. Defendants generally admit the general allegations regarding the Child Welfare
14 Act set forth in paragraphs 9 through 16 of the complaint, but note that the provisions of the
15 Child Welfare Act speak for themselves and are not defined by plaintiff's characterization of
16 them.

17 10. Defendants generally admit the allegations set forth in paragraphs 17 and 18 of
18 the complaint, but note that the provisions of the State's foster care maintenance program under
19 the Welfare and Institutions Code and other provisions of law speak for themselves and are not
20 defined by plaintiff's characterization of them.

21 11. Defendants admit the contents of the first sentence of paragraph 19 of the
22 complaint, but have no present information or belief as to the truth of the other matters asserted
23 in paragraph 19 and on that basis deny the remainder of its contents.

24 12. Defendants have no present information or belief as to the truth of the matters
25 asserted in paragraph 20 and on that basis deny its contents.

26 13. Defendants have no present information or belief as to the truth of the matters
27 asserted in paragraph 21 and on that basis deny its contents.

28 14. Defendants deny the contents of paragraph 22 of the complaint.

1 15. As to paragraphs 23 through 26 of the complaint, defendants incorporate by
2 reference their responses as set forth in paragraphs 1 through 14 of this answer, deny the
3 contents of paragraphs 23 and 24 of the complaint, deny that plaintiff has stated a valid cause of
4 action, specifically deny that plaintiff is entitled to any declaratory relief as requested therein or
5 otherwise, and specifically deny that plaintiff is entitled to recover any costs, attorneys' fees, or
6 other monies pursuant to 42 U.S.C. section 1988, as alleged in paragraph 26 of the complaint, or
7 otherwise under any other provision of law.

8 16. As to paragraphs 27 through 30 of the complaint, defendants incorporate by
9 reference their responses as set forth in paragraphs 1 through 15 of this answer, deny the
10 contents of paragraphs 28 and 29 of the complaint, deny that plaintiff has stated a valid cause of
11 action, specifically deny that plaintiff is entitled to any injunctive relief as requested therein or
12 otherwise, and specifically deny that plaintiff is entitled to recover any costs, attorneys' fees, or
13 other monies pursuant to 42 U.S.C. section 1988, as alleged in paragraph 30 of the complaint, or
14 otherwise under any other provision of law.

15 17. As to plaintiff's Prayer for Relief, and subparagraphs "1" through "7" therein,
16 defendants incorporate by reference their responses as set forth in paragraphs 1 through 16 of
17 this answer, and specifically deny that plaintiff is entitled to any relief as prayed for or otherwise.

18 **AFFIRMATIVE DEFENSES**

19 1. The complaint fails to state facts sufficient to constitute any claim upon which
20 relief can be granted against defendants.

21 2. Defendants did not deprive plaintiff of any right or privilege guaranteed by the
22 Constitution or laws of the United States.

23 3. The complaint does not present a case or controversy.

24 4. The complaint is not ripe for adjudication by this Court.

25 5. The Court should abstain from hearing and deciding this action.

26 6. The Complaint is moot.

27 7. The complaint is barred in that the relief sought substantially would require the
28 defendants to alter, fundamentally, substantial portions of California's services and programs.

1 8. The complaint is barred in that the relief sought would place an undue burden or
2 hardship on the State and requires modifications to programs and services which are
3 unreasonable.

4 9. To the extent the Complaint seeks relief in excess of that allowed by federal law,
5 it is barred as inconsistent with federal law.

6 10. Plaintiff has failed to exhaust its administrative and other state remedies.

7 11. California has a comprehensive system or plan which is effectively providing
8 appropriate services to plaintiffs.

9 12. To the extent the complaint alleges entitlement to services or programs which are
10 not being provided, some or all plaintiffs or their representatives have themselves failed to
11 demonstrate eligibility or entitlement to such programs or services.

12 13. The relief requested in the complaint is barred based upon the separation of
13 powers doctrine.

14 14. Defendants, as officials of state departments acting solely in their official
15 capacities administering reasonably within the scope of their official duties and in good faith the
16 multitude of activities conducted by their agencies, are immune from suit under 42 U.S.C. §
17 1983.

18 15. To the extent the complaint alleges violations of law, those alleged violations are
19 not the result of the conduct or omissions of the defendants, nor can those alleged violations be
20 attributed to defendants.

21 16. The complaint is barred by the Tenth Amendment to the Constitution of the
22 United States.

23 17. The complaint is barred by the Eleventh Amendment to the Constitution of the
24 United States.

25 18. Defendants have not waived their sovereign immunity.

26 19. Defendants' investigation into the issues raised in the complaint is at the
27 preliminary stages, and therefore defendants reserve the right to amend their Answer to add
28 further affirmative defenses when they are discovered.

