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**DEPARTMENT OF JUSTICE**

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June 26, 2009

By E-File

The Honorable Claudia Wilken  
United States District Court, Northern District  
1301 Clay Street  
Fourth Floor  
Oakland, CA 94612

Re: *Mikeshia Martinez, et al. v. Schwarzenegger, et al.*  
United States District Court, Northern District of California, Case No. CV 09-2306 CW

Dear Judge Wilken:

We write to follow up on our request at yesterday's hearing for a stay pending appeal. *See* Fed. R. Civ. Proc. 62(c). As the court is aware, the statute at issue, Welfare and Institutions Code section 12306.1(d)(6), was to take effect next Wednesday, July 1, 2009, absent the court's injunction.

**I. Plaintiff's Position**

Plaintiffs oppose the request for a stay and, as described below, request until Wednesday morning, at 9 a.m., to file any opposition to this request.

This afternoon, we met and conferred with plaintiffs regarding our stay request. We offered to submit the question to the court on written motion if plaintiffs would agree to stipulate to shortened time. However, plaintiffs advised that they would only stipulate if they could receive 48 hours to respond to our written motion, assuming they received it Monday morning. Unfortunately, this would not provide defendants sufficient opportunity to obtain a ruling and file an emergency motion with the Ninth Circuit should one become necessary. Therefore, we agreed to file a letter request this evening requesting that the Court rule on the oral request for a stay that we made at the hearing. Plaintiffs requested that we advise the Court that they would like until "48 hours from 9:00 a.m. on Monday" to oppose the request given that this letter is being filed on Friday "after hours."

**II. Defendant's Position**

Defendants request an immediate ruling on our request for a stay given that the statute is set to take effect on Wednesday, July 1, 2009. Because of the short time frames involved, if the

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court denies (or is unable to rule on) the stay request, then defendants intend to file an emergency motion with the Ninth Circuit on Tuesday morning in order to give that court an opportunity to act before the statute goes into effect.

The grounds for our request for a stay pending appeal include, but are not limited to: (1) the financial injury to the State, which is in the midst of a fiscal crisis of unprecedented dimensions, if it is forced to pay counties more than they would be entitled under §12306.1(d)(6); and (2) the public interest, including that the injunction will require the State to identify reductions to other programs to make up the lost savings due to entry of the injunction (initial estimates were \$98 million in savings).

Please be advised that, notwithstanding the above, the State will comply with the injunction by immediately issuing an All-County Information Notice advising the counties that the maximum state participation in wages and benefits will remain at \$12.10 per hour as long as the injunction remains in effect. However, we were advised late this afternoon that, logistically, the State may not be able to fully implement the injunction for at least 8 days. This is because a third party generates the checks that go to the counties on behalf of the Department of Social Services (DSS), and it must now reprogram its system to recalculate the checks pursuant to the court's injunction. DSS is drafting up service agreements pursuant to which this programming will occur and is in the process of obtaining the funds that will be required to implement this portion of defendants' compliance with the injunction.

Respectfully,

/s/

SUSAN M. CARSON  
Supervising Deputy Attorney General

For EDMUND G. BROWN JR.  
Attorney General