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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF LOS ANGELES

20 DAISY TAILFEATHER, LUCY RITORTO,)
21 ELIZABETH MENDLEY and ABELARDO)
22 RODRIGUEZ, on behalf of themselves)
and all others **similarly** situated,)

CASE NO. BC080929

CLASS ACTION

23 Plaintiffs,)

MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION FOR
CLASS CERTIFICATION

24 vs.)

25 BOARD OF SUPERVISORS OF THE COUNTY)
26 OF LOS ANGELES, and ROBERT C.)
GATES, Director of the Los Angeles)
County Department of Health)
Services,)

Date: July 1, 1994
Time: 8:30 A.M.
Dept: 21

27 Defendants.)
28

Discovery Cut-Off: None
Motion Cut-Off: None
Trial Date: None

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1 INTRODUCTION

2 This case concerns Los Angeles County's failure to adopt
3 standards concerning the **timely** provision of necessary medical
4 services to the poor at the County's hospitals and health care
5 centers. For example, new patients at Los Angeles County/USC
6 Medical Center are forced to wait 240 days for a visit to the
7 ophthalmology clinic. During such a prolonged wait, an indigent man
8 or woman with diabetes could easily go blind. Similarly, poor
9 residents of South Central Los Angeles have been placed at serious
10 risk of a heart attack because Martin Luther King/Drew Medical
11 Center forces them to wait more than 210 days for a cardiology
12 appointment. Plaintiffs contend that the County is violating their
13 rights and those of all others similarly situated under Welfare and
14 Institutions Code §§ 17000 and 17001, Health and Safety Code § 450
15 and Calif. Const., Art. I, § 1.

16 By this motion, plaintiffs seek to have this case certified as
17 a class action. Class actions have long been recognized as "a
18 'peculiarly appropriate' vehicle for providing effective relief
19 when, as here, a large number of applicants or recipients have been
20 improperly denied governmental benefits on the basis of an invalid
21 regulation, statute or administrative practice." Employment
22 Development Dept. v. Superior Court, 30 Cal.3d 256, 265, 178
23 Cal.Rptr. 612 (1981) (citations omitted); accord, Reyes v. Board of
24 Supervisors, 196 Cal.App.3d 1263, 1270, 242 Cal.Rptr. 339 (1987).

25 This case easily meets all the requirements for class
26 certification. See Los Angeles Superior Court Manual for Conduct
27 of Pretrial Proceedings in Class Actions ("**Class** Action Manual"),
28 § 427.1-.5. Moreover, plaintiffs should not be required to give

1 notice of the pendency of this action prior to judgment. See Id.
2 ; 427.6.

3 I

4 THIS LAWSUIT EASILY SATISFIES ALL THE REQUIREMENTS FOR
5 MAINTENANCE AS A CLASS ACTION.

6 Code of Civil Procedure § 382 provides statutory authorization
7 for class actions. The basic requirements to sustain any class
8 action are: "(1) there must be an ascertainable class; and (2)
9 there must be a well defined community of interest in the questions
10 of law and fact involved affecting the parties to be represented."
11 Daar v. Yellow Cab Co., 67 Cal.2d 695, 706; 63 Cal.Rptr. 724
12 (1967); see also Richmond v. Dart Industries, Inc., 29 Cal.3d 462,
13 370, 174 Cal.Rptr. 515 (1981). This lawsuit **meets** both
14 requirements.

15 A. Ascertainable Class

16 Whether a class is ascertainable depends upon "(1) the class
17 definition, (2) the size of the class and (3) the means of
18 identifying class members." Miller v. Woods, 148 Cal.App.3d 862,
19 874, 196 Cal.Rptr. 69 (1983); ~~accord Vasquez v. Superior Court~~,
20 Cal. 3d 800, 821-822, 94 Cal. Rptr. 796 (1971).

21 In accordance with Class Action Manual § 427.1, the class in
22 this case is well defined, numerous and readily identifiable.
23 The proposed class definition is as follows: "All indigent
24 residents of Los Angeles County who are **or** will be in need of the
25 medical services provided by the Los Angeles County **Department of**
26 Health Services."

27 This class definition is based on the County's mandatory
28 obligation to provide medical care to the **indigent** under Welfare
and Institutions Code § 17000. Section 17000 provides, **ir**

1 pertinent part, that every county

2 shall relieve and support all incompetent, poor, indigent
3 persons, and those incapacitated by age, disease or
4 accident, lawfully resident therein, when such persons
5 are not supported and relieved by their relatives or
6 friends, by their own means, or by state hospitals or
7 other state or private institutions.

8 Section 17000 "requires counties to provide 'medical care,'
9 not just emergency **care**" to the indigent. Cooke v. Superior Court,
10 213 Cal.App.3d 401, 414, 261 Cal.Rptr. 706 (1989); Bav General
11 Hospital v. County of San Dieao, 156 Cal.App.3d 944, 957, 203
12 Cal.Rptr. 184 (1984). This statutory mandate covers those unable
13 to **meet** their basic subsistence needs, such as food and shelter.
14 Boehm v. Superior Court, 178 Cal.App.3d 494, 499-502, 223 Cal.Rptr.
15 716 (1986). In addition, for decades it has been the law that the
16 counties are also obligated to furnish care to the medically indi-
17 gent, those who have "insufficient means" to **meet** their medical
18 expenses, in whole or in part, even if they can **meet** their other
19 subsistence needs without assistance. Goodall v. Brite, 11
20 Cal.App.2d 540, 548-550, 54 P.2d 510 (1936). While "a county is
21 authorized to fix the rate to be charged the indigent and to direct
22 its collection" [Health and Safety Code § 14731, a county cannot
23 charge an amount beyond the "indigent person's ability to pay."
24 County of San Diego v. Vilorio, 276 Cal.App.2d 350, 80 Cal.Rptr.
25 869 (1969).

26 The proposed class definition encompasses three identifiable
27 groups entitled to health care under **§ 17000**. The first group
28 consists of General Relief ("**GR**") recipients, those desperately
poor residents who receive cash grants from the County to **meet**
their basic needs for housing, food, clothing and **transportation**.
The second group is made up of those indigent residents who qualify

1 under the County's Ability-To-Pay ("ATP") plan for medical care at
2 County facilities for free or at a reduced charge. County flyer
3 regarding ATP program, Exhibit ("Ex.") B at 2-3.¹ The third group
4 consists of Medi-Cal recipients who receive care at county facili-
5 ties, and who have no alternate source of medical care. See Madera
6 Community Hospital v. County of Madera, 155 Cal.App.3d 136, 150-51,
7 201 Cal.Rptr. 768 (1984) (county has residual obligation to provide
8 medical care to "its poor and indigent residents" notwithstanding
9 federal or state programs, such as Medi-Cal, which operate concur-
10 rently and "alleviate, to a greater or lesser extent, County's
11 burden") accord, Board of Supervisors v. Superior Court, 207
12 Cal.App.3d 552, 557-558, 254 Cal.Rptr. 905 (1989) (referring to Los
13 Angeles County).

14 With regard to the issue of numerosity, the Court of Appeal
15 has stated:

16 [A] class action is proper when the parties are numerous
17 and it is impracticable to bring them all before the
18 court. This requirement has been satisfied where the
class numbers were as few as 200, or as many as several
thousand if members are scattered throughout the state.

19 Miller v. Woods, 148 Cal.App.3d at 874 (citations omitted). It is
20 unnecessary for the exact number to be known before a class may be
21 certified. Lopez v. Heckler, 572 F.Supp. 26, 30 (C.D. Cal. 1980),
22 aff'd in part and rev'd on other grounds, 725 F.2d 1489 (9th Cir.),
23 vacated on other grounds, 469 U.S. 1082 (1984).

24 The exact number of members in this case, albeit uncertain, is
25 large. Each month an average of 90,000 local residents receive GR
26 benefits. Printout entitled "**Bureau** of Assistance Payments, GR
27

28 ¹ References to exhibits and declarations are to those filed
by plaintiffs in support of this motion for class certification.

1 approved Caseload--by District (January 1994), Ex. A at 1. Another
2 1,700,000 local residents are Medi-Cal recipients. Printout
3 entitled Number of Certified Medi-Cal Eligibles (October-December
4 1993), Ex. C at 5. In any given year, the number of members of the
5 proposed class undoubtedly exceeds three million. Defendants do
6 not deny that the proposed class is "so numerous that the joinder
7 of all its members is not practical." Complaint for Declaratory
8 and Injunctive Relief, etc. ("Complaint"), ¶ 12; Defendant's
9 Supplemental Response to Plaintiffs' Second Set of Form Interroga-
10 tories, Ex. E at 21:6-23.

11 While plaintiffs may be unable to state the exact number of
12 affected persons, defendants have the means available to identify
13 them. Each GR recipient, ATP participant and Medi-Cal recipient in
14 the County fills out paperwork with his or her address and other
15 personal information. Presumably, the County should have retained
16 these records during the last several years. As the court in
17 Miller v. Woods explained in the related context of a class action
18 regarding public assistance:

19 The location and identity of these class members could be
20 readily obtained from the Department's records because
21 each applicant or recipient fills out an application for
22 benefits and identifies his or her provider. This
23 identification procedure has been followed in other
24 welfare class actions.

25 148 Cal.App. 3d at 874. Thus, the proposed class meets all three
26 criteria for an ascertainable class.

27 B. Community of Interest

28 The other general requirement for class actions, a community
of interests, encompasses three factors: "(1) predominant common
questions of law or fact; (2) class representatives with claims or
defenses typical of the class; and (3) class representatives who

1 can adequately represent the class." Richmond v. Dart Industries,
2 Inc., 29 Cal.3d at 470; accord, Baltimore Football Club, Inc. v.
3 Superior Court, 171 Cal.App.3d 352, 358, 215 Cal.Rptr. 323 (1985).

4 The common question requirement is satisfied in cases, like
5 the instant one, where the defendants' "action enforcing the
6 challenged [policy] similarly affects a large group of people [and]
7 is challenged on the identical legal grounds in each case." Miller
8 v. Woods, 148 Cal.App.3d at 875. The claims in this case arise out
9 of a common set of factual circumstances. See Class Action Manual
10 § 427.2. Members of the class have been harmed by the Board of
11 Supervisors' failure to adopt any standards limiting how long
12 indigent patients must wait for outpatient visits or emergency care
13 at the County's facilities, as well as the failure to ensure that
14 systems are in place to monitor the County Health Department's
15 compliance with such standards.

16 At present, the County operates six hospitals, six comprehen-
17 sive health centers, 40 public health centers and three rehabili-
18 tation centers. Defendants' Answer to Complaint for Declaratory
19 and Injunctive Relief, etc. ("Answer"), ¶ 9. Defendants admit
20 that "[n]o ordinances or resolutions address waiting times for
21 specific services." Defendants' Supplemental Responses to
22 Interrogatories, Ex. I at 124:16-25.

23 Judging by the Answer, the County apparently has no idea
24 whether the poor must wait weeks, or even months, for a scheduled
25 appointment at the County's outpatient clinics and whether these
26 backlogs endanger patients' lives and health. Complaint, ¶ 20;
27 Answer, ¶ 11 (denials for "lack of sufficient information and
28 belief" about operations at County facilities). By the same token,

1 the County apparently has no idea how long people wait for care in
2 the County's emergency rooms or whether such delays imperil not
3 only the individual in need of emergency care, but the public at
4 large'. Complaint, ¶ 21; Answer, ¶ 10.

5 Los Angeles County/USC Medical Center ("County Hospital")
6 illustrates the problems for class members in obtaining prompt
7 medical care. Defendants admittedly have no written standards
8 concerning the timely scheduling of indigent patients for
9 appointments at County Hospital's outpatient clinics or for
10 examination and treatment in its emergency room. Deposition
11 ("Depo.") Of John McClurg, County Hospital's Administrator of
12 Special Services Unit, Ex. F at 26-35, 51-55. Consequently, as of
13 June 4, 1993, 800 patients were waiting an average of 58 days for
14 an initial appointment at County Hospital's Cardiac Clinic, more
15 than 1500 patients were waiting an average of 77 days for an
16 initial appointment at the Diabetes Clinic, and more than 3800
17 patients were waiting an average of 209 days for an initial
18 appointment at the Ophthalmology Clinic. Id. at 36-49, 69, 70.

19 Like County Hospital, Martin Luther King/Charles Drew Hospital
20 ("King Hospital") has no written standards regarding the timely
21 scheduling of indigent patients for appointments at its outpatient
22 clinics or for examination and treatment in its emergency room.
23 Depo. of Maria Elena Sanchez, King Hospital's Chief Operations
24 Officer, Ex. G at 78-87, 101-113. There, too, the poor experience

25
26 ² This indifference to the medical needs of the poor is not
27 a complete surprise **inasmuch** as defendants deny that outpatient
28 clinic services are necessary to preserve the public health and are
essential to the early detection and treatment of potentially
complicated and life-threatening conditions. Complaint, ¶ 19;
Answer, ¶ 10.

1 .nhumane delays in receiving care, such as 292 days to be seen in
2 .he neurology clinic, 241 days for the cardiology clinic, and 212
3 lays for the general surgery clinic. Id. at 92-99, 114-117.

4 Tragically, the inordinate waiting times for appointments at
5 County and King Hospitals are not an aberration. Defendants do not
6 deny that members of the proposed class share the same experience--
7 long delays in receiving necessary medical services at all County
8 facilities. Complaint, ¶¶ 12, 13 ; Answer, ¶ 7 and Seventh
9 Affirmative Defense; Defendants' Response to Plaintiffs' Second Set
10 of Form Interrogatories, Ex. D at 11:20-26; Defendants' Supple-
11 mental Response to Plaintiffs' Second Set of Form Interrogatories,
12 Ex. E at 21:7 through 22:6. Thus, this case arises out of a common
13 set of factual circumstances.

14 This common set of factual circumstances raises the same
15 issues of law under the Welfare and Institutions Code, Health and
16 Safety Code and the California Constitution for all class members.
17 See Class Action Manual § 427.1. At the certification stage, the
18 "trial court is not to examine the merits of the case...." Reves
19 v. Board of Supervisors of San Diego County, 196 Cal.App.3d at
20 1271-1272. Nevertheless, plaintiffs will briefly discuss the
21 merits of one of their claims to illustrate the common issues of
22 law.

23 Welfare and Institutions Code § 17001 requires the counties to
24 adopt standards of aid and care. As discussed previously, § 17000³
25 imposes a mandatory duty upon the County to provide its indigent
26 residents with necessary medical care. If § 17000 is not to be
27

28 ³ Hereinafter, all statutory references are to the Welfare and Institutions Code unless indicated otherwise.

1 rendered meaningless, then an inherent part of the obligation to
2 provide necessary medical care is to do so promptly; otherwise the
3 counties could effectively deny care by delaying it indefinitely.
4 Moreover, § 10000 expressly requires that "aid shall be adminis-
5 tered and services provided promptly and humanely." See Cooke v.
6 Superior Court, 213 Cal.App.3d at 413-415 (county's level of dental
7 care violated § 10000's mandate that relief be provided humanely).

8 In recognition of its statutory obligations, The County has
9 set standards concerning the prompt delivery of cash benefits to GR
10 recipients. County Department of Public Social Services GR
11 Regulations §§ 40-108.2, 40-160, 44-220, 44-222.22, Ex. H at 119-
12 122. In this case, plaintiffs are simply asking that the County
13 adopt standards concerning the prompt delivery of medical care to
14 the indigent and thereafter ensure that those standards are
15 followed. These legal claims are the same for each of the
16 plaintiffs and the class as a whole.

17 The named plaintiffs present claims typical of the class.
18 Daisy Tailfeather, for example, is a long time resident of the
19 County and a GR recipient. Tailfeather Declaration ("Dec.") at 28,
20 ¶¶ 1-3. With a history of shortness of breath, chest pain,
21 bronchitis, joint pain and headaches, Ms. Tailfeather has depended
22 for her medical care on County facilities; **mostly** County Hospital
23 and H. Claude Hudson Comprehensive Health Center. Id. at 28-31, ¶¶
24 5-12, 18. She has experienced lengthy waits both in obtaining an
25 appointment at County facilities and in being treated once she
26 arrives for an appointment. Id. at 29-30, ¶¶ 8-10, 13-17.

27 Another plaintiff, Lynda Brewer., has lived in the County for
28 more than 30 years and has qualified at various **times** for the ATP

1 and Medi-Cal programs. Brewer Dec. at 43-44, ¶¶ 1-8. Ms. Brewer
2 is "generally dependent on County facilities" for her medical care.
3 Id. at 43, ¶ 8. She too has been forced to wait long periods of
4 time to receive treatment at County facilities: five- hours in
5 County Hospital's emergency room while suffering from a high fever
6 and chills; six weeks for an appointment at the Pomona Health
7 Center. Id. at 44, ¶¶ 9, 11. See also **Mattie** Glover Dec. at 41,
8 ¶¶ 1-5 (fifty-eight-year-old plaintiff with irregular heartbeat
9 told to wait six months to be seen by cardiologist); Estela
10 Madrigal Dec. at 46-47, ¶¶ 1-10 (plaintiff, age 62, had to wait
11 several hours to receive treatment even though she was "crying
12 because [she] was in such severe pain").

13 Defendants contend that "[b]ecause plaintiffs' conditions and
14 circumstances differ, their interests are antagonistic to other
15 members of the class." Defendants' Response to Plaintiffs' Second
16 Set of Form Interrogatories, Ex. D at 10:28 through 11:2. Yet,
17 regardless of their particular medical conditions, the plaintiffs
18 and members of the class all share a common interest in receiving
19 prompt medical care at County facilities. As the court observed in
20 Hypolite v. Carleson, 52 Cal.App.3d 566, 580, 125 Cal.Rptr. 221
21 (1975), the fact that the particular benefits "due an individual
22 claimant may vary" does "not negate the factual 'community of
23 interest' so as to preclude a class action on behalf of all." See
24 also Appleyard v. Wallace, 754 F.2d 955, 958 (11th Cir. 1985)
25 (notwithstanding factual differences in medical conditions of named
26 plaintiffs, they present typical claims in statewide class action
27 challenging admission criteria for nursing homes); Dean v.
28 Coushlin, 107 F.R.D. 331, 333-34 (S.D.N.Y. 1985) (despite factual

1 differences among each class members' claims as to dental care,
2 named plaintiffs present typical claims in this class action
3 challenge to dental care in a state prison). The subordinate
4 factual circumstances of each class member should not obscure the
5 common questions of fact and law in this case as well.

6 The third factor, adequacy of representation, concerns
7 potential conflicts between the named representative and other
8 class members. See Class Action Manual § 427.5. Because of the
9 nature of this action, no such conflicts exist. The representa-
10 tiveness of plaintiffs is apparent from the prior discussion of
11 commonality. Plaintiffs' interest in the case is completely
12 consistent with the interests of the class as a whole. Richmond v.
13 Dart Industries, 29 Cal.3d at 479-80.

14 The adequacy of representation also concerns the competency of
15 the counsel representing plaintiffs and the potential class.
16 Plaintiffs in this case are represented by counsel with substantial
17 experience in complex litigation, class actions, health care,
18 General Relief, and public assistance benefits. Decs. of Robert D.
19 Newman, Beth Osthimer, John Rittmayer, Yolanda Vera and Silvia
20 Argueta, 4-27. They have acted as lead counsel or co-counsel in
21 numerous class actions in state and federal courts, including:
22 Robbins v. County of Sacramento, 38 Cal.3d 199 (1985) (county could
23 not require GR recipients to reside in a poorhouse); Garza v.
24 County of Los Angeles, 918 F.2d 763 (9th Cir. 1990), cert. denied,
25 ___ U.S. ___, 111 S.Ct. 681 (1991) (County redistricting plan
26 intentionally discriminated against rights of Hispanic voters); and
27 Clark v. Kizer, 758 F.Supp. 572 (E.D. Cal. 1990), aff'd, 967 F.2d
28 565 (9th Cir. 1992) (state has violated Medi-Cal recipients' rights

1 to equal access to dental care). See also Serritella v. Enuleman,
2 339 F.Supp. 738, 748 (D. N.J.), aff'd, 462 F.2d 601 (3d Cir. 1972)
3 ("Legal Services attorneys . . . have both the expertise and the
4 dedication necessary to pursue class action").

5 C. Superiority of Class Action Over Other Methods

6 A case should be certified as a class action "only where
7 substantial benefits accrue both to the litigants as well as the
8 courts." Reves v. Board of Supervisors, 196 Cal.App.3d at 1271; see
9 also Class Action Manual § 427.3. In Reves, the court observed
10 that a class action was especially appropriate to vindicate the
11 rights of GR recipients given the harsh underlying reality of their
12 circumstances. 196 Cal.App.3d at 1279. "Such victims as a prac-
13 tical matter without class certification will individually neither
14 seek nor obtain redress because they are too poor, their claims too
15 small and the legal issues too arcane to obtain private counsel."
16 Id. In certifying the case as a class action, the Reves court
17 cited other public policy considerations, "such as judicial
18 economy, finality of judgment binding all parties to the decree,
19 and enforceability of class judgments through contempt or supple-
20 mental decrees...." Id.

21 The reasoning of Reves applies equally to the case at bar.
22 Here, too, individual class members are unable to pursue separate
23 actions as a practical matter, inasmuch as they are poor, their
24 claims are small, and the legal issues are too arcane to attract
25 private counsel. Class certification will certainly promote judi-
26 cial economy and the finality of judgments. On the other hand,
27 should the motion for class certification be denied, the only

28

1 persons entitled to prosecute this action⁴ and enforce any judgment
2 will be the named plaintiffs. If these plaintiffs should die,
3 become incapacitated, leave Los Angeles or otherwise become
4 unavailable, then no one else can enforce any judgment against
5 defendants in this case. Indeed, defendants have refused to
6 stipulate that in the absence of class certification non-parties
7 could still enforce any judgment in this case in plaintiffs' favor.
8 Newman Dec. at 8, ¶ 14. Thus, in a case like this one for
9 declaratory and injunctive relief, class certification serves to
10 avoid problems with mootness and to facilitate enforcement of
11 judgments. 5 Newberg on Class Actions § 23.07 (1992). In short,
12 substantial benefits accrue to both the parties and this Court from
13 certifying this case as a class action.

14 II

15 SINCE THIS LAWSUIT PRIMARILY SEEKS INJUNCTIVE
16 AND DECLARATORY RELIEF, NOTICE **NEED** NOT BE
GIVEN TO THE CLASS PRIOR TO JUDGMENT.

17 As the preceding arguments have demonstrated, this suit should
18 be certified as a class action. The question arises whether it is
19 now necessary to give class members notice of this pending action.
20 The answer is no. See Class Action Manual § 427.6 ("notice to the
21 class is not necessary in all actions" and an order may be entered
22 "dispensing with the requirement that the class be notified of the
23 action") .

24
25 ⁴ As plaintiffs have pled an alternative claim for writ of
26 mandate under Code of Civil Procedure § 1085, they would still be
27 able to seek relief against the County not just for their own
28 personal injuries, but for the violations of the rights of all poor
people. See Hd. of Soc. Welfare v. County of Los Angeles, 27
Cal.2d 98, 1001-10, 162 P.2d 627 (1945); Green v. Obledo, 29 Cal.3d
126, 144, 172 Cal.Rptr. 206 (1981). Others cannot enforce such a
judgment, however.

1 The California Supreme Court has directed trial courts to
2 refer to Fed.R.Civ.P. 23 in resolving procedural questions about
3 class actions. See Richmond v. Dart Industries, Inc., 29 Cal.3d at
4 469-470, n. 6. There is no requirement under Rule 23 that notice
5 be given to class members where the action primarily seeks
6 injunctive or declaratory relief. See Fed.R.Civ.P. 23(b)(2) and
7 (c); Johnson v. General Motors Corp., 598 F.2d 432, 436-437 (5th
8 Cir. 1979).

9 Similarly, in state court, "prejudgment notice is not required
10 in welfare class actions where declaratory and injunctive relief
11 are the primary objectives." Reves, 196 Cal. App. 3d at 1274. For
12 example, plaintiffs in Gonzales v. Jones, 116 Cal.App.3d 978, 171
13 Cal.Rptr. 567 (1981), challenged Santa Clara County's policies on
14 sanctions for General Assistance recipients. In denying class
15 certification, the trial court mistakenly held that the plaintiff
16 had to notify all potential class members of the pendency of the
17 action. The Court of Appeal disagreed. It held that notice need
18 be given only if and when the plaintiffs prevail on the merits.
19 The Court of Appeal added that the costs of giving such notice
20 should then be borne by the County. Id. at 986-87.

21 The court in Miller v. Woods likewise refused to require the
22 plaintiffs in this public assistance case to give prejudgment
23 notice to class members. The court stated:

24 Notice is not a requirement in welfare class
25 actions where declaratory or injunctive relief
26 are the primary objective California
27 decisions follow the analysis of the federal
28 Courts; prejudgment notice "**serves** no apparent
purposes" in welfare class actions where there
are no factual disputes and the class is
adequately represented by counsel. Plaintiffs
seek declaratory and injunctive relief and
incidental individual retroactive benefits,

1 based solely on the validity of the Depart-
2 ment's regulation. Notice to other class
members is not necessary.

3 148 Cal.App.3d at 875 (citation omitted).

4 By the foregoing rules, plaintiffs should not be required to
5 notify class members of the pending lawsuit at this time. This
6 case is identical to a typical class action under Rule 23(b)(2) of
7 the Federal Rules of Civil Procedure in that it seeks only
a injunctive and declaratory relief. Furthermore, there are no
9 serious factual differences among the class members and the class
10 can rely upon adequate representation by counsel.

11 CONCLUSION

12 For the foregoing reasons, the Court should: (a) certify this
13 case as a class action; (b) define the class as "all indigent
14 residents of Los Angeles County who are or will be in need of the
15 medical services provided by the Los Angeles County Department of
16 Health Services"; and (c) not require plaintiffs to give absent
17 class members any notice of this action prior to judgment or
18 settlement.

19 DATED: April 29, 1994.

20 WESTERN CENTER ON LAW & POVERTY
21 NATIONAL HEALTH LAW PROGRAM
22 LEGAL AID FOUNDATION OF LOS ANGELES
23 AMERICAN CIVIL LIBERTIES UNION
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