

San Francisco Superior Courts
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Case Number: CPF-97-987697

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ORDER

SCHWARZMER VS BELSHE

001C00685446

Instructions:

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12 Attorneys for Petitioners

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

15 KEVIN CONLAN, ASHER SCHWARZMER
AND THOMAS STEVENS,)

16 Petitioners)

17 vs.)

18 DIANA BONTA, Director, California
19 Department of Health Services;
CALIFORNIA DEPARTMENT OF
20 HEALTH SERVICES; DOES 1 -20;)

21 Respondents.)
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FILED
San Francisco County Superior Court

MAY 12 2003

GORDON PARK-LI, Clerk
BY: Gordon Park-Li Deputy Clerk

28 Interim Order
Case No. 987 697

1 On April 30, 2003, the Court held a hearing on petitioners' Motion For Judgment Granting
2 Ordinary And Administrative Mandamus. Michael Keys, Bay Area Legal Aid, and Richard
3 Rothschild, Western Center on Law and Poverty appeared for petitioners. Supervising Deputy
4 Attorney General Frances T. Grunder and Matt Felix, staff counsel for the Department of Health
5 Services, appeared upon behalf of the respondents.

6 Based upon the Court of Appeal opinion, the record for this matter and the writings, exhibits
7 and arguments submitted for the hearing on April 30, 2003, the Court issues the following interim
8 order:

9 1. Within 60 days of this order, respondents shall file with the Court a written Compliance
10 Plan (Plan) setting forth the actions they propose to take to achieve compliance with the Court of
11 Appeal decision. Respondents shall provide petitioners' counsel with a copy of the proposed Plan
12 on the day that the plan is filed with this Court. Petitioners' counsel shall be allowed 20 days to
13 submit written comments on the Plan to the Court. Petitioners' counsel shall schedule a hearing for
14 the purpose of allowing this Court to review the Plan and determine whether it will create a
15 procedure that satisfies the Court of Appeal's disposition.

16 2. Respondents' Plan shall include an interim reimbursement procedure whereby recipients
17 with claims for reimbursement shall be able to file these claims and receive a determination of
18 eligibility pending final implementation of the Plan. The interim procedure shall inform the
19 Administrative Law Judges (ALJs) and respondent Bonta in reviewing ALJ decisions to comply with
20 their duties as prescribed in *Conlan v. Bonta* (2002) 102 Cal.App.4th 745, 761-762. In the event that
21 respondents do not include an interim provision in their Plan or that the Court determines
22 respondents' proposed interim process is insufficient, this Court will designate such an interim
23 process.

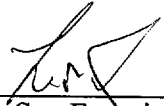
24 3. This order solely concerns implementing the Court of Appeal remand order. If petitioners
25 believe they are entitled to additional relief, they may pursue it by noticed motion.

26 4. Petitioners are entitled to an interim award of attorneys fees and costs pursuant to CCP
27 §1021.5 and Welfare & Institutions Code §10962. The parties shall attempt to agree upon a
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1 reasonable amount of fees. If they are unable to reach agreement, petitioners shall have 120 days
2 from the date of this order within which to file a motion for such an award.

3 IT IS SO ORDERED.

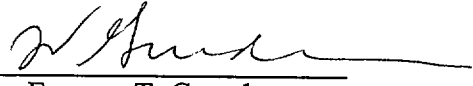
4 May 7, 2003



Judge, San Francisco Superior Court
Michael Keys

7 Approved as to form.

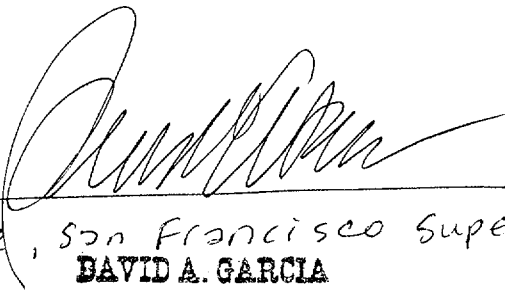
8 Dated: May 7, 2003



Frances T. Grunder
Supervising Deputy Attorney General

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Dated: **MAY 12 2003**



Judge, San Francisco Superior Court
DAVID A. GARCIA