

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Rupert Byrdsong

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 ROBIN CREST and HOWARD A. MYERS,

13 Plaintiffs,

14 v.

15 GAVIN NEWSOM, in his official capacity as  
16 Governor of the State of California,

17 and

18 KIM JOHNSON, in her official capacity as  
19 Director of the California Department of  
20 Social Services,

21 Defendants.

Case No. **20STCV16321**

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

22 **INTRODUCTION**

23 1. Plaintiffs ROBIN CREST and HOWARD A. MYERS, taxpayers of the State of  
24 California, seek to enjoin Defendants GAVIN NEWSOM and KIM JOHNSON from providing \$75  
25 million of taxpayer funds to unlawfully present aliens in violation of federal law and expending an  
26 estimated additional \$4.8 million of taxpayer funds as well as additional taxpayer-financed resources on  
27 the administration of those payments.

28 **JURISDICTION AND VENUE**

1. Jurisdiction in this case is founded on Code of Civil Procedure section 526a, which  
authorizes California taxpayers to sue state officials and obtain a judgment restraining and preventing  
illegal expenditures of taxpayer funds and taxpayer-financed resources.

3. Venue in this Court is appropriate under Code of Civil Procedure section 393, as the taxpayer funds and taxpayer-financed resources at issue are being expended or will be expended in the County of Los Angeles.

#### PARTIES

4. Plaintiff ROBIN CREST is a resident taxpayer of the State of California who is assessed for and is liable to pay, or, within one year before the commencement of this action, has paid income and/or other taxes that fund the State of California.

5. Plaintiff HOWARD A. MYERS is a resident taxpayer of the State of California who is assessed for and is liable to pay, or, within one year before the commencement of this action, has paid income and/or other taxes that fund the State of California.

6. Defendant GAVIN NEWSOM is the Governor of the State of California. As Governor, NEWSOM is vested with the supreme executive power of the state. Cal. Const., art. V, § 1. NEWSOM announced the initiative to provide \$75 million of taxpayer funds to unlawfully present aliens, authorized the expenditure, and directed Defendant JOHNSON to oversee and administer the expenditure.

7. Defendant KIM JOHNSON is the Director of the California Department of Social Services (“CDSS”). As Director, JOHNSON is the head of CDSS. CDSS is charged with overseeing and administering the expenditures of \$75 million of taxpayer funds to unlawfully present aliens and an estimated additional \$4.8 million of taxpayer funds for administration through community-based nonprofit organizations.

8. Defendants NEWSOM and JOHNSON are sued in their official capacities only.

#### LEGAL FRAMEWORK

9. Under federal law, unlawfully present aliens generally are ineligible for State or local public benefits. 8 U.S.C. § 1621(a). With certain exceptions not relevant here, the term “State or local public benefit” means:

- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

1 (B) any retirement, welfare, health, disability, public or assisted housing,  
2 postsecondary education, food assistance, unemployment benefit, or any other  
3 similar benefit for which payments or assistance are provided to an individual,  
household, or family eligibility unit by an agency of a State or local government  
or by appropriated funds of a State or local government.

4 8 U.S.C. § 1621(c)(1)(A) and (B). “A State may provide that an alien who is not lawfully present in the  
5 United States is eligible for any State or local public benefit . . . only through the enactment of a State  
6 law . . . which affirmatively provides for such eligibility.” 8 U.S.C. § 1621(d).

### 7 STATEMENT OF FACTS

8 10. On April 15, 2020, Governor Newsom announced a new initiative to provide direct  
9 assistance to unlawfully present aliens. The initiative is known as the “Disaster Relief Fund” or the  
10 “Disaster Relief Assistance for Immigrants Project.”

11 11. According to a press statement released the same day, “California will provide \$75  
12 million in disaster relief assistance[.]”

13 12. The \$75 million “will support undocumented Californians” who otherwise are ineligible  
14 for state or federal insurance or other benefits “due to their immigration status.”

15 13. Governor Newsom anticipates approximately 150,000 unlawfully present aliens “will  
16 receive a one-time cash benefit of \$500 per adult with a cap of \$1,000 per household[.]”

17 14. The cash “will be dispersed through a community-based model of regional nonprofits  
18 with expertise and experience” serving unlawfully present aliens.

19 15. Governor Newsom’s “Guide for Immigrant Californians” webpage states:

20 [CDSS] will select immigrant-serving community-based nonprofit organizations to  
21 conduct targeted outreach, application assistance, and delivery of the disaster relief  
22 assistance to eligible individuals. The selected organizations will deliver the assistance  
directly to qualified individuals.

23 16. On or about April 17, 2020, CDSS published a “Disaster Relief Assistance for  
24 Immigrants Fact Sheet.” The fact sheet reiterates that only unlawfully present aliens are eligible for  
25 direct assistance under the Disaster Relief Assistance for Immigrants Project.

26 17. According to the fact sheet, “The total amount allocated for the Disaster Relief for  
27 Immigrants Project is \$79.8 million . . . Seventy-five million dollars will support direct assistance and an  
28 estimated \$4.8 million will support program administration through qualified nonprofit organizations.”

1 18. According to the fact sheet, the \$79.8 million figure includes a new allocation of \$63.3  
2 million from the appropriation made in section 36 of the Budget Act of 2019 (added by Senate Bill 89,  
3 passed March 17, 2020) for the March 4, 2020 proclamation of a state of emergency and \$16.5 million  
4 from the reappropriation made in section 23.20 of the Budget Act of 2019 for entities including  
5 nonprofits that provide critical assistance to immigrants during emergent situations (the “Rapid  
6 Response Reserve Fund”).

7 19. The source of revenue for the \$79.8 million total expenditure is the General Fund.  
8 Personal income taxes, sales and use taxes, and corporation taxes account for 99% of General Fund  
9 revenue sources for the fiscal year 2019-20.

10 20. According to Governor Newsom’s press release, the immigrant resource guide, and  
11 CDSS’s fact sheet, unlawfully present aliens will be able to apply for and receive their cash benefit  
12 payments starting in May 2020.

13 21. According to the fact sheet’s proposed regional distribution of the \$75 million, the largest  
14 population of unlawfully present aliens – an estimated 40,000 of the 150,000 total – reside in Los  
15 Angeles County.

16 **FIRST CAUSE OF ACTION**

17 **(Violation of 8 U.S.C. § 1621)**

18 22. Plaintiffs incorporate by reference and reallege all their prior allegations herein.

19 23. Defendants’ initiative known as the “Disaster Relief Fund” or the “Disaster Relief  
20 Assistance for Immigrants Project” provides one-time cash benefits of \$500 per adult / \$1,000 per  
21 household to 150,000 unlawfully present aliens starting in May 2020.

22 24. The one-time cash benefits are state or local public benefits as defined by 8 U.S.C. §  
23 1621(c).

24 25. The California State Legislature has not enacted any law which affirmatively provides  
25 that unlawfully present aliens are eligible for those public benefits.

26 26. Accordingly, Defendants’ initiative violates federal law, specifically, 8 U.S.C. § 1621(a).

27 27. As a consequence, the \$75 million expenditure is an illegal expenditure of taxpayer funds  
28 under California law.

1 28. Similarly, the expenditures of an estimated additional \$4.8 million of taxpayer funds as  
2 well as additional taxpayer-financed resources to oversee, administer, and deliver the \$75 million one-  
3 time cash benefits to unlawfully present aliens through community-based nonprofit organizations are  
4 illegal expenditures of taxpayer funds under California law.

5 29. An actual and justiciable controversy has arisen and now exists between Plaintiff and  
6 Defendants. Plaintiffs contend they are assessed for and liable to pay, or, within one year before the  
7 commencement of this action, have paid income and/or other taxes that fund the State of California, and  
8 Defendants are expending, intend to expend, or will expend taxpayer funds and taxpayer-financed  
9 resources illegally by providing one-time cash benefits to unlawfully present aliens in violation of  
10 federal and state law.

11 30. On information and belief, Defendants contend those expenditures do not violate federal  
12 law and therefore they are not expending taxpayer funds illegally and do not intend to expend or will not  
13 expend taxpayer funds or taxpayer-financed resources illegally in the future.

14 31. A judicial declaration pursuant to Code of Civil Procedure section 1060 is necessary and  
15 appropriate so that the parties may ascertain their respective legal rights and duties with respect to  
16 Defendants' illegal expenditure of taxpayer funds on cash benefits to unlawfully present aliens.

17 32. Plaintiffs have no adequate remedy at law.

#### 18 PRAYER FOR RELIEF

19 WHEREFORE, Plaintiffs pray for the following relief against Defendants:

20 1. A judgment declaring that Defendants' expenditures of taxpayer funds – \$75 million to  
21 provide one-time cash benefits of \$500 per adult / \$1,000 per household to 150,000 unlawfully present  
22 aliens and an estimated additional \$4.8 million to administer those cash benefits – violate 8 U.S.C. §  
23 1621 and are illegal;

24 2. An injunction permanently restraining and preventing Defendants from using taxpayer  
25 funds and taxpayer-financed resources to provide those cash benefits to unlawfully present aliens;

26 3. Costs of suit herein;

27 4. Reasonable attorneys' fees under the Private Attorney General Statute, Code of Civil  
28 Procedure section 1021.5, the Common Defense Fund, and the Substantial Benefit Doctrine; and

1           5.       Such other relief as this Court deems just and proper.

2 Dated: April 29, 2020

JUDICIAL WATCH, INC.

3  
4 By: /s/ Robert Patrick Sticht.  
ROBERT PATRICK STICHT

5 *Attorneys for Plaintiffs*

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