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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 ROBIN CREST and HOWARD A. MYERS,

Case No.: 20STCV16321

13 Plaintiffs,

14 v.

**PLAINTIFFS' NOTICE OF EX PARTE
APPLICATION AND EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY
INJUNCTION**

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,

Date: May 5, 2020
Time: 8:30 a.m.
Place: Dept. 28
Judge: Hon. Rupert A. Byrdsong

21 Defendants.

Action Filed: April 29, 2020

22 **TO THE COURT ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

23 PLEASE TAKE NOTICE that on May 5, 2020, at 8:30 a.m., or as soon thereafter as counsel
24 may be heard, in Department 28 of the Los Angeles County Superior Court located at 111 North Hill
25 Street, Los Angeles, California 90012, Plaintiffs Robin Crest and Howard A. Myers will apply for a
26 temporary restraining order, restraining and enjoining Defendants Gavin Newsom, in his official
27 capacity as Governor of the State of California, and Kim Johnson, in her official capacity as Director of
28 the California Department of Social Services, and their agents from making **imminent** illegal
expenditures of taxpayer funds pursuant to the Governor's April 15, 2020 initiative known as the
"Disaster Relief Fund" or "Disaster Relief Assistance for Immigrants Project."

1 There is good cause for this *ex parte* application as Governor Newsom intends to make the
2 illegal expenditures of taxpayer funds **starting in May 2020** and has directed Director Johnson to
3 oversee, administer, and deliver \$75 million in cash benefits to 150,000 unlawfully present aliens
4 (including 40,000 in Los Angeles County, the region with the largest population of targeted recipients).
5 Those cash benefits will be distributed through immigrant-serving community-based nonprofit
6 organizations that are being recruited by the Department of Social Services to conduct targeted outreach,
7 application assistance, and delivery of the cash benefits.

8 The issuance of a temporary restraining order **preserving the status quo** is warranted. The
9 Governor’s initiative clearly violates federal immigration law, 8 U.S.C. § 1621(a), which provides that
10 unlawfully present aliens generally are ineligible for State or local public benefits. The initiative, known
11 as the “Disaster Relief Fund” or the “Disaster Relief Assistance for Immigrants Project,” provides one-
12 time cash benefits of \$500 per adult / \$1,000 per household to 150,000 unlawfully present aliens starting
13 in May 2020. Those one-time cash benefits are State or local public benefits as defined in the federal
14 statute (8 U.S.C. § 1621(c)). The California State Legislature has not enacted any law which
15 affirmatively provides that unlawfully present aliens are eligible for those cash public benefits. The
16 federal statute says, “A State may provide that an alien who is not lawfully present in the United States
17 is eligible for any State or local public benefit . . . *only* through the enactment of a State law . . . which
18 affirmatively provides for such eligibility.” 8 U.S.C. § 1621(d) (emphasis added). Accordingly, the
19 Governor’s initiative clearly violates federal law. As a consequence, the \$75 million expenditure is an
20 illegal expenditure of taxpayer funds that may be enjoined under California law, Code of Civil
21 Procedure § 526a, authorizing taxpayer actions against public officers to enjoin illegal expenditures of
22 public funds. Similarly, the expenditures of an estimated additional \$4.8 million of taxpayer funds as
23 well as additional taxpayer-financed resources to oversee, administer, and deliver the \$75 million cash
24 benefits to unlawfully present aliens through community-based nonprofit organizations also are illegal
25 expenditures of taxpayer funds under California law.

26 This Application is made on the ground that the Plaintiffs are entitled to the relief demanded
27 based on the actions of the Defendants described above either for a limited time period or perpetually,
28 and on the further ground that great, immediate, and irreparable injury to Plaintiffs and the taxpayers’

1 funds of nearly 40 million Californians will result before the matter can be heard on notice, and there is
2 no adequate remedy at law.

3 This Application is authorized pursuant to California Rules of Court §§ 3.1200 – 3.1207, LR
4 3.4(f) and 3.5, First Amended General Order re Mandatory Electronic Filing For Civil ¶ 8 (May 3,
5 2019), Civil Code §§ 3420 and 3421, and Code of Civil Procedure §§ 525, 526, and 527.

6 There has not been any previous application for similar relief.

7 Notice of this *ex parte* was given to Anna Ferarri, Deputy Attorney General, and Mr. Thomas
8 Patterson, Senior Assistant Attorney General, on May 4, 2020, with notice of this Application and the
9 orders being sought. (See Declaration of Robert Patrick Sticht re Notice).

10 This Application is based upon Plaintiffs’ Complaint for Declaratory and Injunctive Relief, this
11 notice and application, the memorandum, declarations, and exhibits in support of this *ex parte*
12 application, the file and record in this case, and such oral argument and further evidence as may be
13 presented to the Court at the time of hearing.

14 Dated: May 4, 2020

JUDICIAL WATCH, INC.

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16 By: /s/ Robert Patrick Sticht.
17 ROBERT PATRICK STICHT

18 Attorneys for Plaintiffs,
19 Robin Crest and Howard A. Myers
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