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NORTHERN DISTRICT OF CALIFORNIA

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13  
14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

CV 09

4398

18 CALIFORNIA ALLIANCE OF CHILD AND  
FAMILY SERVICES,

19 Plaintiff,

20 v.

21 JOHN WAGNER, Director of the California  
Department of Social Services, in his official  
22 capacity; GREGORY ROSE, Deputy Director of  
the Children and Family Services Division of the  
23 California Department of Social Services, in his  
official capacity,

24 Defendants.

No.

DECLARATION OF ANDREW  
DIAMOND IN SUPPORT OF  
PLAINTIFF CALIFORNIA  
ALLIANCE OF CHILD AND  
FAMILY SERVICES' *EX PARTE*  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND  
ORDER SHOWING CAUSE  
REGARDING PRELIMINARY  
INJUNCTION

1 I, Andrew Diamond, declare as follows:

2 1 I am a resident of the State of California and am over the age of 18. I am  
3 submitting this declaration in support of California Alliance of Child and Family Services'  
4 Temporary Restraining Order Application. Each of the facts stated herein are based on my  
5 personal knowledge unless I state that I know that information based on information and belief.

6 2. I am currently the President and CEO of Hamburger Home, Inc. d/b/a Aviva  
7 Family and Children's Services ("Aviva"). I have held the positions of President and CEO for  
8 twenty years. My job duties include oversight of the organization's budget and finances.

9 3. In addition to other programs, Aviva operates a group home for teenage girls  
10 called the Wallis Annenberg Center. The agency was founded in 1913 and the residential  
11 treatment program began operating as such in the 1960s. The Wallis Annenberg Center provides  
12 care for thirty-six girls. The girls that we serve are referred to our program through The  
13 Department of Probation and the Department of Child and Family Services. The girls referred  
14 have serious emotional problems and severe learning problems. They all require intensive  
15 supervision, therapy and many require special education services.

16 4. A significant portion of the funding for our group home comes from the  
17 California Department of Social Services ("DSS"), which makes foster care maintenance  
18 payments as is required under the federal Child Welfare Act and California's Welfare and  
19 Institutions Code. DSS's foster care maintenance payments make up approximately twenty-two  
20 percent of Aviva's operating budget. The remainder of our funding comes from other sources,  
21 including fundraising.

22 5. The foster care maintenance payments that Aviva receives from DSS are used to  
23 provide the most basic necessities to the foster care children at the Wallis Annenberg Center.  
24 Among other things, Aviva uses the funds it receives to provide food, shelter, daily supervision,  
25 school supplies and many other essential items as required under the federal Child Welfare Act  
26 and California Welfare and Institutions Code.

27 6. In recent years, the cost of providing the basic necessities required under the  
28 federal Child Welfare Act and California Welfare and Institutions Code has increased

1 significantly. At the same time, the reimbursement rates have remained almost the same. As a  
2 result, the reimbursement rates from DSS no longer cover the costs of providing the required  
3 basic necessities to the children under our care. Our residential program loses about \$350,000  
4 annually. Unfortunately, this has caused us to close one of our residential sites..


5 7. Until June 1, 2009, Aviva operated a second group home for teenage girls called  
6 the Milken Family Graduate House. That facility had been in operation for over twenty years,  
7 first as a runaway shelter and then as a licensed residential facility. Our decision to close the  
8 Milken Family Graduate House was a direct result of inadequate DSS reimbursement rates.  
9 Even if the facility had been filled to capacity, it would have been operating at a loss.

10 8. I am informed and believe that in July 2009 the State of California passed its new  
11 budget for 2009 (the "2009 Budget"). The 2009 Budget includes a ten-percent reduction in the  
12 DSS reimbursement rates for foster care maintenance payments.

13 9. The 2009 Budget's ten-percent reduction in DSS reimbursement rates will further  
14 increase the gap between, on the one hand, the amount necessary to provide the required basic  
15 necessities under the Child Welfare Act and, on the other hand, the amount Aviva actually  
16 receives from DSS. This reduction will significantly affect Aviva and the foster children under  
17 its care. Aviva cannot lay-off staff or reduce the services it provides without compromising the  
18 quality of its residential program. Thus, the ten percent reduction in reimbursement rates may  
19 force us to consider the viability of continuing to operate the Annenberg Center.

20 I declare under penalty of perjury under the laws of the United States of America  
21 that the foregoing is true and correct.

22 Executed on July 23, 2009, at Los Angeles, CA.

23  
24   
25 Andrew Diamond