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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 **CALIFORNIA ALLIANCE OF CHILD AND**
13 **FAMILY SERVICES,**
14 Plaintiff,
15 v.
16 **JOHN WAGNER, Director of the California**
17 **Department of Social Services, in his official**
18 **capacity; MARY AULT, Deputy Director of the**
19 **Children and Family Services Division of the**
20 **California Department of Social Services, in her**
Defendants.

C 06-4095 MHP
**DEFENDANTS' NOTICE OF
MOTION AND CROSS
MOTION FOR SUMMARY
JUDGMENT;
MEMORANDUM OF POINTS
AND AUTHORITIES**
Hearing: August 27, 2007
Time: 2:00 p.m.
Courtroom: 15, 18th floor
Judge: The Hon. Marilyn H. Patel

21 TO PLAINTIFF CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES AND ITS
22 ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE THAT John Wagner and Mary Ault, defendants in their
24 official capacities in this action, will move the Court, on August 27, 2007, at 2:00 p.m. or as
25 soon thereafter as the matter may be heard, in Courtroom 15, the Honorable Marilyn Hall Patel,
26 presiding, in the United States District Courthouse at 450 Golden Gate Avenue, San Francisco,
27 California, for an order granting summary judgment in their behalf under Rule 56 of the Federal
28 Rules of Civil Procedure.

1 By this motion defendants seek to have the Court grant judgment in their favor and
2 against plaintiff on all grounds of the complaint, and thereafter dismiss plaintiff's complaint,
3 because defendants are entitled to judgment as a matter of law in this action.^{4/}

4 Defendants' motion to dismiss is made on the ground that plaintiff's complaint cannot
5 be sustained against defendants because neither defendants' policies nor their actions violate the
6 Child Welfare Act (Title IV-E of the Social Security Act, 42 U.S.C. §§ 670-679b), as contended
7 by plaintiff or otherwise.

8 This motion is based on this notice of motion and motion, the supporting memorandum
9 of points and authorities in support thereof, the declarations in support of the motion, the
10 attached exhibits, the Court's file in this action, any other matters properly before this Court, on
11 argument to be presented at the hearing on the motion, and on the proposed order, a copy of
12 which is submitted with this notice of motion and motion.

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14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **STATEMENT OF THE CASE**

16 This is a civil-rights lawsuit filed June 30, 2006, based on 42 U.S.C. section 1983.
17 Plaintiff seeks a declaratory judgment, pursuant to 28 U.S.C. section 2201, that the Rate
18 Classification Level (RCL) system employed by the California Department of Social Services
19 (CDSS) to set rates of payment to foster care group homes for the provision of care to children in
20 those group homes. According to plaintiff, the RCL violates the Child Welfare Act (Title IV-E
21 of the Social Security Act, 42 U.S.C. sections 670-679b) and its implementing regulations.
22 Plaintiff further seeks permanent injunctive relief to prospectively prohibit defendants from
23 using the RCL to set payment rates for foster care group homes. (Complaint for Declaratory and
24 Injunctive Relief (Complaint), p. 3:18-24.)

25 Contrary to plaintiff's contention, the RCL system does not violate the Child Welfare
26 Act or any of its regulations or other provisions. Accordingly, judgment should be entered for
27

28 1. By direction of the Court, the parties are to file cross motions for summary judgment.

Not. of Mtn. & Cross Mtn. for Summary Judgment; Memo of Ps & As California Alliance, etc., v. Allenby, et al.
C 06-4095 MHP

