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8
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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES

14
15 HUNGER ACTION LOS ANGELES, CANGRESS
dba LOS ANGELES COMMUNITY ACTION
16 NETWORK, and PETER JEOVANNY TORRES-
GUTIERREZ,

17 Petitioners/Plaintiffs

18 vs.

19 COUNTY OF LOS ANGELES, LOS ANGELES
20 COUNTY DEPARTMENT OF PUBLIC SOCIAL
SERVICES, LOS ANGELES COUNTY BOARD OF
21 SUPERVISORS, and ANTONIA JIMÉNEZ in her
22 official capacity as the Director of the Department of
Public Social Services,

23 Respondents/Defendants.
24

Case No. **21STCP03835**

**VERIFIED PETITION FOR WRIT
OF MANDATE AND COMPLAINT
FOR INJUNCTIVE RELIEF (CODE
CIV. PROC. §§ 1085, 526a)**

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1 **INTRODUCTION**

2 1. Each month, thousands of destitute individuals and families in Los Angeles County are
3 placed at risk of going hungry because the County fails to process applications for emergency
4 CalFresh food assistance benefits within the expedited timeframe required by state and federal
5 law.

6 2. Recognizing the vital importance of CalFresh benefits, formerly known as Food Stamps,
7 for those facing severe economic hardship, the Legislature has mandated that counties provide
8 CalFresh benefits within three calendar days when applicants have extremely low income and
9 resources or cannot meet their monthly housing expense.

10 3. In September 2021, the County failed to meet this three-day deadline for 29 percent of
11 eligible applications, impacting over 4,900 needy individuals and families. That same month the
12 County also failed to meet the seven-day deadline under federal law for 20 percent of eligible
13 applications, impacting over 3,300 individuals and families.

14 4. Petitioner Peter Jeovanny Torres-Gutierrez is among those adversely affected by the
15 County’s failure to comply with state and federal law. In June 2021, when Mr. Torres-Gutierrez
16 was 17 years old, his father applied for CalFresh after a stroke left him unable to continue
17 working as a day laborer. Mr. Torres-Gutierrez’s household had no income and was entitled to
18 receive CalFresh benefits within three days, but they had to wait 45 days before receiving aid.

19 5. The County’s failure to timely provide CalFresh benefits to County residents who qualify
20 for expedited service has also harmed Petitioners Hunger Action Los Angeles and Los Angeles
21 Community Action Network, two non-profit organizations fighting hunger in Los Angeles
22 County. The County’s delays impair Hunger Action Los Angeles’s efforts to help eligible
23 individuals and households enroll in the CalFresh program and require it to spend additional time
24 following up on delayed applications. Los Angeles Community Action Network’s low-income
25 and unhoused members have also faced delays in accessing CalFresh. Especially during the
26 COVID-19 pandemic, when its members’ and neighbors’ food needs have been even more acute,
27 Los Angeles Community Action Network has had to devote significant resources to providing
28 food to people in Skid Row.

1 6. The harms that result when people—especially children—go hungry are significant, far-
2 reaching, and undisputed. Even short periods of hunger can have profound and long-lasting
3 effects on an individual’s physical and mental health. Hunger also negatively impacts adults’
4 ability to work and children’s attendance and focus at school. People who are eligible for
5 expedited service CalFresh are already in desperate financial situations. They, by definition, lack
6 the income and resources to meet basic needs like food and housing; many are homeless or
7 actively fleeing domestic violence. Delays in processing expedited service CalFresh, even for
8 just a few days, have real and serious impacts on applicants’ lives.

9 7. In this action, Petitioners seek a writ of mandate and injunctive relief requiring
10 Respondents to comply with their mandatory duty to provide expedited CalFresh benefits to
11 eligible applicants within the time required by Welfare and Institutions Code § 18902 and 7
12 U.S.C. § 2020(e)(9).

PARTIES

13
14 8. Petitioner Hunger Action Los Angeles (“Hunger Action”) is a 501(c)(3) non-profit
15 organization dedicated to ending hunger and promoting healthy eating in Los Angeles County
16 through advocacy, direct service, and organizing. Hunger Action’s staff provide assistance
17 applying for CalFresh to people eligible for benefits. Hunger Action has a significant interest in
18 food policy impacting its clients, including the lawful implementation of the CalFresh program.

19 9. Petitioner Cangress, dba Los Angeles Community Action Network (“LA CAN”), is a
20 membership-based 501(c)(3) non-profit organization in Los Angeles County working on behalf
21 of extremely low-income and unhoused residents of downtown and South Central Los Angeles.
22 Its mission is to create opportunities for people experiencing poverty and to ensure they have a
23 voice in the decisions that affect them. Since 2004, one of LA CAN’s core projects has been
24 ensuring access to healthy food, including through state and local policy advocacy regarding
25 CalFresh. LA CAN has members who qualify for CalFresh benefits and meet the criteria for
26 expedited processing of CalFresh applications.

27 10. Petitioner Peter Jeovanny Torres-Gutierrez is a resident of Los Angeles County. Mr.
28 Torres-Gutierrez is 18 years old and completing his senior year in high school. He lives in El

1 Monte, California with his father, his older sister, and his sister’s children. He has received
2 CalFresh benefits through the County since July 19, 2021.

3 11. Respondent Los Angeles County Department of Public Social Services (“the
4 Department”) is the public agency responsible for administering the CalFresh program within the
5 County, including ensuring timely processing of CalFresh applications.

6 12. Respondent Antonia Jiménez is the Director of the Department and is responsible for its
7 lawful operation. Director Jiménez is sued in her official capacity.

8 13. Respondent Los Angeles County is a county of the State of California and is responsible
9 for the Department.

10 14. Respondent Los Angeles County Board of Supervisors is the legislative body responsible
11 for managing the County government.

12 **STATUTORY BACKGROUND**

13 15. The Supplemental Nutrition Assistance Program (“SNAP”) is the country’s largest anti-
14 hunger program and provides monthly benefits that eligible low-income households can use to
15 purchase food at authorized retailers. Recognizing that “the limited food purchasing power of
16 low-income households contributes to hunger and malnutrition among members of such
17 households,” Congress enacted SNAP to “alleviate . . . hunger and malnutrition” and to enable
18 “low-income households to obtain a more nutritious diet.” 7 U.S.C. § 2011.

19 16. SNAP is a federal-state partnership. The United States Department of Agriculture
20 (“USDA”) pays the full cost of SNAP benefits, with the cost of administering the program
21 divided between USDA and states and local governments.

22 17. The federal Food and Nutrition Act requires states that participate in SNAP to designate a
23 state agency to carry out the program. 7 U.S.C. § 2020. States design their own plans for
24 administering SNAP benefits within the parameters set by the Food and Nutrition Act and
25 (USDA) regulations. *Id.*

26 18. The California Department of Social Services is the state agency responsible for
27 administering SNAP in California, where the program is known as “CalFresh.” County welfare
28

1 departments administer CalFresh locally in each county in accordance with Department of Social
2 Services rules and regulations. Welf. & Inst. Code § 18902.

3 19. Federal law mandates that most SNAP applications must be processed within 30 days of
4 initial application. 7 C.F.R. § 273.2(g)(1).

5 20. However, counties must provide faster, expedited processing for certain households
6 whose lack of resources make their need for food assistance extremely urgent. Under federal
7 law, expedited service CalFresh benefits must be provided no later than seven calendar days
8 following the date of application to applicants who have less than \$150 in gross monthly income
9 and less than \$100 in liquid resources or whose monthly housing costs are more than the sum of
10 their liquid resources and gross income for the month. 7 U.S.C. § 2020(e)(9); 7 C.F.R.
11 § 273.2(i)(1), (i)(3)(i).

12 21. California has adopted a shorter time frame for expedited benefits. Under Welfare and
13 Institutions Code § 18914(b), “[a]pplicants who meet the federal criteria for expedited service . .
14 . shall receive either a manual authorization to participate or automated card or the immediate
15 issuance of CalFresh benefits no later than the third day following the date the application was
16 filed.” California requires counties to deliver benefits to eligible households on or before the
17 third calendar day after application, even if the third day falls on a weekend or holiday.
18 California Department of Social Services Manual of Policy and Procedures § 63-301.531(a).

19 **FACTS**

20 22. Month after month, Respondents fail to issue CalFresh benefits to thousands of needy
21 County residents eligible for expedited service within the time required by state law. According
22 to data reported by the County to the state Department of Social Services, Respondents failed to
23 provide timely expedited benefits to an average of 36 percent of eligible households during the
24 12-month period from October 2020 through September 2021, totaling over 54,000 eligible
25 applications that the County did not process on time. In September 2021, the most recent month
26 for which data is available, 29 percent of emergency applications were processed late – meaning
27 over 4,900 households did not receive their CalFresh benefits on time in that month alone. In the
28

1 preceding two months, July and August 2021, the County processed less than half of eligible
 2 expedited services applications within the three-day deadline.

3 23. The chart below summarizes Respondents’ consistent failure to comply with state law:

Month	Applications Processed under ES ¹	Found entitled to ES	ES Benefits issued late (>3 days)	Percentage of Benefits issued late (>3 days)
October 2020	50,295	10,322	2,964	28.72%
November 2020	46,743	10,572	2,894	27.37%
December 2020	63,319	14,630	4,427	30.26%
January 2021	69,338	14,375	5,391	37.50%
February 2021	61,678	12,856	4,330	33.68%
March 2021	58,335	11,824	3,574	30.23%
April 2021	53,011	10,771	3,101	28.79%
May 2021	41,406	9,574	3,293	34.40%
June 2021	47,579	11,312	5,278	46.66%
July 2021	56,977	12,219	6,328	51.79%
August 2021	77,936	14,391	7,645	53.12%
September 2021	57,105	16,963	4,939	29.12%

19 24. Respondents have also consistently failed to provide expedited benefits within the longer
 20 seven-day window that federal law requires them to meet. From October 2020 through
 21 September 2021, an average of 23 percent of County households eligible for expedited CalFresh
 22 benefits had to wait more than seven days after submitting their application before receiving
 23 aid—totaling over 34,000 households.

24 //
 25 //

27 ¹ This column includes only those applications disposed of during the month (meaning fully
 28 processed, and either approved or denied) and also processed under expedited service. This
 number does not include the total number of applications submitted to the Department during the
 calendar month.

25. The chart below summarizes Respondents' consistent failure to comply with federal law:

Month	Applications Processed under ES	Found entitled to ES	ES Benefits issued in more than 7 days	Percentage of Benefits issued more than 7 days late
October 2020	50,295	10,322	1,544	14.96%
November 2020	46,743	10,572	1,399	13.23%
December 2020	63,319	14,630	2,361	16.14%
January 2021	69,338	14,375	3,303	22.98%
February 2021	61,678	12,856	2,679	20.84%
March 2021	58,335	11,824	2,111	17.85%
April 2021	53,011	10,771	1,903	17.67%
May 2021	41,406	9,574	1,888	19.72%
June 2021	47,579	11,312	3,421	30.24%
July 2021	56,977	12,219	4,720	38.63%
August 2021	77,936	14,391	5,750	39.96%
September 2021	57,105	16,963	3,331	19.64%

26. Respondents' treatment of Mr. Torres-Gutierrez's CalFresh application illustrates the impact of their failures on households who need emergency food assistance. Mr. Torres-Gutierrez's mother passed away when he was 18 months old, and his father raised him with the help of his older sister. With the exception of a brief period of time after which Mr. Torres-Gutierrez's father lost his job in 2013, Mr. Torres-Gutierrez's father did not seek public benefits on behalf of his son because he was able to provide for him by working as a day laborer.

27. In Spring 2021, when Mr. Torres-Gutierrez was 17 years old, his father suffered a severe stroke. His father was hospitalized for a month and was also diagnosed with COVID-19. The stroke left Mr. Torres-Gutierrez's father unable to speak clearly or to walk more than short distances and caused lasting paralysis on his right side.

1 28. With Mr. Torres-Gutierrez’s father unable to work, the household initially relied on help
2 from relatives and donations of food from their church to meet their basic needs. But that help
3 did not last long. The household soon found themselves unable to meet their monthly rent and in
4 desperate need of money for food.

5 29. On June 4, 2021, Mr. Torres-Gutierrez’s father submitted an application for CalFresh
6 benefits on his son’s behalf. Mr. Torres-Gutierrez’s sister helped his father complete the
7 application online via the Department’s webpage, “Your Benefits Now”.

8 30. The application indicated that the household had no income or resources.

9 31. The application form has questions directed at eligibility for CalFresh expedited service
10 including, “Is your household’s gross income less than \$150 and cash on hand, checking and
11 savings accounts \$100 or less?” and “Is your household’s combined gross income and liquid
12 resources less than the combined rent/mortgage and utilities?” Both questions were answered
13 “Yes,” indicating that the household met the requirements for expedited service and was entitled
14 to receive benefits no later than June 7.

15 32. Instead, the household had to wait until July 19—45 days—before receiving CalFresh,
16 and they only received their benefits after an attorney intervened on their behalf.

17 33. What transpired during the intervening 45 days reveals the dysfunction in the way the
18 Department processes its emergency applications, and the barriers it erects that prevent
19 individuals and families, like the Torres-Gutierrez household, from receiving the critical benefits
20 to which they are entitled.

21 34. Respondents require CalFresh applicants to undergo an interview with a Department
22 staff person before the Department will approve a CalFresh application. The application form
23 explains that Respondents’ practice is to conduct these interviews by phone after the application
24 is submitted, unless an applicant is turning in the application in person at a Department office.

25 35. The application has a box applicants can check to indicate that they “need other
26 arrangements” for the interview due to a disability. Mr. Torres-Gutierrez’s father has difficulty
27 communicating on the phone due to impairments related to his stroke; accordingly, the box
28

1 indicating a need for other arrangements was checked on the household's CalFresh application.
2 But Respondents never contacted the household to make other arrangements.

3 36. Upon information and belief, the household heard nothing from the Department until Mr.
4 Torres-Gutierrez's father got two voicemails from the Department on June 21, 2021, 17 days
5 after they filed their application and two weeks after they should have started receiving expedited
6 service CalFresh benefits. Sometime after that, they received a form letter dated June 21, 2021,
7 stating that the Department had scheduled a phone interview for Mr. Torres-Gutierrez's father on
8 June 28 at 8:30 AM. Between June 21 and June 28, Mr. Torres-Gutierrez's father tried calling
9 the Department, but was not able to get through due to high call volume.

10 37. Upon information and belief, on the morning of June 28, Mr. Torres-Gutierrez's father
11 waited by the phone, but no call ever came. A few days later, the household received a form
12 letter dated June 28, 2021, stating that he had missed his interview and had until July 8 to
13 complete the interview. He heard nothing further until July 6, when he received a form letter
14 stating that the application was denied because he missed his phone interview.

15 38. After the family enlisted the assistance of an attorney, the Department finally processed
16 Mr. Torres-Gutierrez's application and granted the household CalFresh benefits on July 19,
17 2021. It took another nine days until Mr. Torres-Gutierrez actually received access to the
18 benefits.

19 39. During the six weeks between June 7, when Mr. Torres-Gutierrez by law should have
20 received CalFresh benefits, and July 19, when the County finally granted the application, Mr.
21 Torres-Gutierrez, then 17-years-old, was often hungry. He would skip meals, tried to depress his
22 appetite, and felt tired much of the time.

23 40. Mr. Torres-Gutierrez's family's experience is only one example of Respondents'
24 systemic failure to timely provide expedited service to CalFresh applicants, a failure that is
25 negatively impacting thousands of County residents every month.

26 41. Hunger Action is also harmed by Respondents' failure. When Respondents do not timely
27 provide expedited CalFresh benefits to eligible applicants that Hunger Action has assisted, its
28 staff must spend extra time following up on those applications, reducing the time they have

1 available to help others. People who do not receive timely benefits are less likely to recommend
2 Hunger Action and CalFresh to others in need of assistance, impairing the organization’s efforts
3 to increase CalFresh enrollment and ensure that the program reaches those who need it.

4 42. LA CAN and its members are also impacted by Respondents’ delays in processing
5 expedited service applications.

6 43. LA CAN’s members are people living in Skid Row and South Central Los Angeles who
7 are either experiencing poverty or have experienced poverty in the past. Many of them are
8 eligible for CalFresh benefits and many receive CalFresh. Some are eligible but have not been
9 able to access CalFresh due to the types of barriers Mr. Torres-Gutierrez faced.

10 44. One of LA CAN’s five member-led action committees is the Skid Row Food & Wellness
11 Collaborative, whose primary goal is to get food into the hands of the people who need it most.
12 It achieves this through organizing, advocacy, education, and delivery of food to community
13 members, many of whom are living unsheltered in Skid Row.

14 45. LA CAN has spent time and money to provide free food to people on Skid Row, both
15 before and during the pandemic. Some of the people who rely on free food from LA CAN are
16 eligible for CalFresh but have been unable to access CalFresh due to processing delays.

17 46. Respondents’ expedited service processing delays also frustrate LA CAN’s mission
18 because those delays prevent unhoused residents of Skid Row and other people in dire need from
19 accessing food and undermine people’s ability to achieve and maintain stability.

20 **FIRST CLAIM FOR RELIEF**

21 **(Failure to Perform Ministerial Duty Under Welfare and Institutions Code § 18914)**

22 **(All Petitioners against all Respondents)**

23 47. Petitioners re-allege and incorporate by reference all preceding paragraphs as if fully set
24 forth herein.

25 48. Respondents have a clear, present, and ministerial duty under Welfare and Institutions
26 Code § 18914(b) to issue CalFresh benefits to all applicants who qualify for expedited service
27 “no later than the third day following the date the application was filed” (counting a weekend as
28 one calendar day).

1 49. At all times, Respondents have had and continue to have the ability to perform their
2 duties under § 18914(b) but have failed to do so. They have consistently failed to issue CalFresh
3 benefits to thousands of households eligible for expedited service within the time required under
4 the statute. Unless compelled to perform their duties in accordance with the law, Respondents
5 will continue to fail to do so.

6 50. Hunger Action has a beneficial interest in Respondents’ performance of their duties under
7 § 18914(b), because Respondents’ failure to perform those duties impacts the organization’s
8 efforts to increase CalFresh enrollment and ensure that the program reaches those who need it.

9 51. LA CAN and its members have a beneficial interest in Respondents’ performance of their
10 duties under § 18914(b), in that many of its members and others in the low-income communities
11 it serves qualify for expedited service.

12 52. Mr. Torres-Gutierrez has a beneficial interest in Respondents’ performance of their duties
13 under § 18914(b), in that he may need to apply for CalFresh benefits in the future and may again
14 qualify for expedited service.

15 53. Petitioners also are interested as citizens in Respondents’ performance of their public
16 duties under § 18914(b).

17 54. Petitioners have exhausted available administrative remedies and have no plain, speedy,
18 and adequate remedy in the ordinary course of the law other than this action to compel
19 Respondents to perform their duties under § 18914(b).

20 **SECOND CLAIM FOR RELIEF**

21 **(Failure to Perform Ministerial Duty Under 7 U.S.C. § 2020(e)(9))**

22 **(All Petitioners against all Respondents)**

23 55. Petitioners re-allege and incorporate by reference all preceding paragraphs as if fully set
24 forth herein.

25 56. Respondents have a clear, present, and ministerial duty under 7 U.S.C. § 2020(e)(9) to
26 issue CalFresh benefits to all applicants who qualify for expedited service “no later than 7 days
27 after the date of application.”

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1 57. At all times, Respondents have had and continue to have the ability to perform their
2 duties under 7 U.S.C. § 2020(e)(9) but have failed to do so. They have consistently failed to
3 issue CalFresh benefits to thousands of households eligible for expedited service within the time
4 required under the statute. Unless compelled to perform their duties in accordance with the law,
5 Respondents will continue to fail to do so.

6 58. Hunger Action has a beneficial interest in Respondents' performance of their duties under
7 7 U.S.C. § 2020(e)(9), because Respondents' failure to perform those duties impacts the
8 organization's efforts to increase CalFresh enrollment and ensure that the program reaches those
9 who need it.

10 59. LA CAN and its members have a beneficial interest in Respondents' performance of their
11 duties under 7 U.S.C. § 2020(e)(9), in that many of its members and others in the low-income
12 communities it serves qualify for expedited service.

13 60. Mr. Torres-Gutierrez has a beneficial interest in Respondents' performance of their duties
14 under 7 U.S.C. § 2020(e)(9) in that he may need to apply for CalFresh benefits in the future and
15 may again qualify for expedited service.

16 61. Petitioners also are interested as citizens in Respondents' performance of their public
17 duties under § 7 U.S.C. § 2020(e)(9).

18 62. Petitioners have exhausted available administrative remedies and have no plain, speedy,
19 and adequate remedy in the ordinary course of the law other than this action to compel
20 Respondents to perform their duties under 7 U.S.C. § 2020(e)(9).

21 **THIRD CLAIM FOR RELIEF**

22 **(Taxpayer Action to Prevent Illegal Expenditure of Funds, Code Civ. Proc. § 526a)**

23 **(All Petitioners against all Respondents)**

24 63. Petitioners re-allege and incorporate by reference all preceding paragraphs as if fully set
25 forth herein.

26 64. Respondents are illegally expending public funds by performing their duties in violation
27 of state and federal law, as alleged in this petition.

28

1 65. Petitioners have paid taxes to Los Angeles County within one year of the commencement
2 of this action.

3 66. Unless and until enjoined by this Court, Respondents' conduct will cause irreparable
4 injury to Petitioners because Respondents will continue to make illegal and wasteful
5 expenditures.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioners pray for relief as follows:

8 (a) A writ of mandate under Code of Civil Procedure § 1085 ordering Respondents to
9 comply with their duties under Welfare and Institutions Code § 18914 and 7 U.S.C. § 2020(e)(9)
10 by issuing CalFresh benefits to all applicants who qualify for expedited service within three
11 calendar days of application, as required by state law, and within seven calendar days of
12 application, as required by federal law;

13 (b) A preliminary and/or permanent injunction prohibiting respondents from violating
14 Welfare and Institutions Code § 18914 and 7 U.S.C. § 2020(e)(9);

15 (c) An order awarding Petitioners reasonable costs and attorneys' fees to the extent
16 permitted by law; and

17 (d) Such other relief as the Court deems just and proper.

18

19 Dated: November 22, 2021

NEIGHBORHOOD LEGAL SERVICES
OF LOS ANGELES

20

21

By: /s/ Lena Silver
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By: /s/ Melissa A. Morris
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VERIFICATION

I, Lena Silver, state that:

1. I am an attorney licensed to practice law in California, and my professional office is located in Los Angeles County.

2. I represent Petitioners who reside in Los Angeles County.

3. I have read the Petition for Writ of Mandate and Complaint for Injunctive Relief and know the contents therein. They are true to the best of my knowledge except those allegations on information and belief which I believe to be true. I am also more familiar with the legal claims raised in this case than the Petitioners.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed on November 19, 2021 in Los Angeles, California.

Lena Silver

Lena Silver

VERIFICATION

I, Frank Tamborello, am the Executive Director of Hunger Action Los Angeles, one of the petitioners in this action, and am authorized to make this verification on its behalf. I have read the Petition for Writ of Mandate and Complaint for Injunctive Relief. To the extent that the Petition is based upon facts known to me, I verify them to be true, and otherwise, I am informed and believe that all facts therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 19, 2021 in Los Angeles, California.

Frank Tamborello

Frank Tamborello

VERIFICATION

I, Todd Cunningham, am the Food and Wellness Organizer of Cangress dba Los Angeles Community Action Network (LA CAN), one of the petitioners in this action, and am authorized to make this verification on its behalf. I have read the Petition for Writ of Mandate and Complaint for Injunctive Relief. To the extent that the Petition is based upon facts known to me, I verify them to be true, and otherwise, I am informed and believe that all facts therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 19, 2021 in Los Angeles, California.

Todd Cunningham

Todd Cunningham

VERIFICATION

I, Peter Jeovanny Torres-Gutierrez, am one of the petitioners in this action. I have read the Petition for Writ of Mandate and Complaint for Injunctive Relief. To the extent that the Petition is based upon facts known to me, I verify them to be true, and otherwise, I am informed and believe that all facts therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 19, 2021 in Los Angeles, California.

Peter

Peter Jeovanny Torres-Gutierrez