

1 LAUREN HANSEN (SBN 268417)
PATTI PRUNHUBER (SBN 277439)
2 MICHAEL RAWSON (SBN 95868)
THE PUBLIC INTEREST LAW PROJECT
3 449 15th Street, Suite 301
Oakland, CA 94612
4 Telephone: (510) 891-9794
Fax: (510) 891-9727
5 Email: lhansen@pilpca.org

6 STEPHANIE HAFFNER (SBN 194192)
ROBERT D. NEWMAN (SBN 86534)
7 WESTERN CENTER ON LAW & POVERTY
449 15th Street, Suite 301
8 Oakland, CA 94612
Telephone: (213) 235-2617
9 Fax: (510) 251-0600
Email: shaffner@wclp.org

10 PILLSBURY WINTHROP SHAW PITTMAN LLP
11 THOMAS V. LORAN III (SBN 95255)
ELAINE LEE (SBN 293452)
12 STACIE O. KINSER (SBN 300529)
PHILIP SHECTER (SBN 300661)
13 Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111
14 Telephone: (415) 983-1000
Fax: (415) 983-1200
15 Email: thomas.loran@pillsburylaw.com

16 Attorneys for Plaintiffs and the Plaintiff Class

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

19 DONALD RAY LILLEY, JARVIS
20 JOHNSON, and DANIEL
MALLORY, individually and on
21 behalf of all others similarly situated,
22 Plaintiffs,

23 vs.

24 COUNTY OF ALAMEDA; BOARD
OF SUPERVISORS OF ALAMEDA
25 COUNTY; ALAMEDA COUNTY
SOCIAL SERVICES AGENCY; and
26 LORI COX, in her official capacity as
Director of the Alameda County
Social Services Agency,
27 Defendants.

Case No.:

CLASS ACTION

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

(Fed. R. Civ. P. 23(b)(2))

INTRODUCTION

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1. Plaintiffs Donald Ray Lilley, Jarvis Johnson, and Daniel Mallory bring this action individually and on behalf of a class of persons (the “Class” or the “Plaintiff Class”) consisting of all current and future applicants for regular and expedited CalFresh (Food Stamp) benefits from defendant Alameda County (“Alameda County” or the “County”). This suit challenges Alameda County’s widespread failure to timely determine eligibility for CalFresh (Food Stamp) benefits. The ongoing and persistent failure and/or refusal of the named Defendants to ensure, on a county-wide basis, the processing of CalFresh applications within the time limits mandated by federal and state law has resulted and continues to result in substantial delays in providing CalFresh benefits to thousands of low-income households in Alameda County critically in need of this assistance to help them feed themselves and their families and provide them with adequate food and nutrition. Indeed, the County’s failure to comply with federal and state mandated timelines has resulted in a backlog of 10,657 pending applications as of July 2015. As a result, needy Alameda County residents are facing undernutrition and hunger, homelessness, and serious health risks.

2. CalFresh applications must be processed, and benefits issued to those eligible, as soon as possible, but no later than 30 days after the date a person submits an application. 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2(a), (g)(1), (3); Cal. Welf. & Inst. Code § 18911(a). Applicants in emergency situations with very low-income and few resources may qualify for expedited food stamps. 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2(i); MPP § 63-301.51.¹ The County must issue these benefits to eligible persons within three calendar days. Cal. Welf. & Inst. Code § 18914(b) (implementing 7 C.F.R. § 273.2(i)); MPP § 63-301.531(a)).

¹ “MPP” refers to the California Department of Social Services’ Manual of Policies and Procedures containing the CalFresh regulations. The MPP or Manual is found at: <http://www.dss.cahwnet.gov/ord/PG303.htm> (last visited September 24, 2015).

1 7. Plaintiffs' claim for violations of California state law concerns the same
2 actions and omissions that form the basis of Plaintiffs' claim under federal law such that the
3 California state law claim is part of the same case or controversy. This Court therefore has
4 supplemental jurisdiction over the California state law claim pursuant to 28 U.S.C. § 1367.

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VENUE AND INTRADISTRICT ASSIGNMENT

7 8. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part
8 of the events or omissions giving rise to the claims herein occurred in this District, and
9 because all Defendants named herein reside in, maintain offices in, or are responsible for
10 enforcing the laws relevant to this litigation in this District.

11 9. In accord with Local Rule 3-2 and Local Rule 3-5, this civil action should be
12 assigned to the San Francisco Division or to the Oakland Division of this Court because a
13 substantial part of the events or omissions which give rise to the claims herein have
14 occurred and are occurring in Alameda County.

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RIGHT OF ACTION

17 10. Title 42 of the United States Code, § 1983 confers a right of action to
18 enforce the federal statutes cited herein. California Code of Civil Procedure § 1085 confers
19 a right of action to enforce the California state statutes cited herein.

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PARTIES

22 11. Plaintiff Donald Ray Lilley is a resident of the City of Livermore, in the
23 County of Alameda and brings this action both individually and on behalf of the Plaintiff
24 Class.

25 12. Plaintiff Jarvis Johnson is a resident of the City of Oakland, in the County of
26 Alameda and brings this action both individually and on behalf of the Plaintiff Class.

27 13. Plaintiff Daniel Mallory is a resident of the City of Berkeley, in the County
28 of Alameda and brings this action both individually and on behalf of the Plaintiff Class.

1 him just one notice, informing him that his caseworker has changed. As of the date of
2 filing of this complaint, the County has not issued him the benefits to which he is entitled.

3 20. Plaintiff Jarvis Johnson is a 53-year old man with disabilities. He receives
4 General Assistance benefits of \$336 per month. After paying for rent and utilities, he has
5 \$10 to survive on per month. Desperately needing additional assistance, he applied for
6 CalFresh benefits on September 10, 2015. After learning he was eligible for expedited
7 benefits, Mr. Johnson requested expedited Food Stamps from the County on September 21,
8 2015. More than one week later, the County still has not issued Mr. Johnson benefits.

9 21. Plaintiff Daniel Mallory is unemployed, after losing a job for which he is
10 owed unpaid wages. Without any income to pay for food, he applied for expedited
11 CalFresh with the County on September 3, 2015. Despite providing identification and
12 indicating that his housing costs exceed his income and resources combined, the County has
13 not issued him expedited food stamps. Twenty-five days later, he is still waiting for
14 expedited CalFresh assistance.

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16 CLASS DEFINITION AND CLASS ACTION ALLEGATIONS

17 22. Plaintiffs Donald Ray Lilley, Jarvis Johnson, and Daniel Mallory seek to
18 represent the Class consisting of current and future applicants for CalFresh (Food Stamp)
19 benefits from Alameda County. As such, this action is maintainable as a class action
20 pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

21 23. The requirements of Rule 23(a)(1) are met in that the Class is so numerous
22 that joinder of all members is impracticable. According to data reported by the County to
23 the California Department of Social Services (“CDSS”), the number of new applicants for
24 CalFresh benefits has exceeded 3,900 in each month of 2015. The County’s most recent
25 reported data show that as of the end of July 2015, 10,657 applications are pending with no
26 decision rendered. The Class is also fluctuating, in that as they apply for benefits, new
27 people regularly will qualify to be members of the Class.

28

1 (the Act).² The express purpose of SNAP is to “safeguard the health and well-being of the
2 Nation’s population by raising levels of nutrition among low-income households.”
3 7 U.S.C. § 2011. SNAP provides federally-funded benefits to eligible low-income
4 households to help them purchase food. *Id.* § 2011 *et seq.*

5 30. SNAP is administered nationally by the United States Department of
6 Agriculture (“USDA”), which is responsible for issuing regulations consistent with the Act.
7 *Id.* § 2013(a), (c). States that participate in the program designate a state agency to
8 administer the program at the state level. *Id.* § 2012(t). State agencies must administer the
9 program in compliance with the Act and its implementing regulations. *Id.* § 2020(e).

10 31. In California, CDSS is the designated state agency responsible for
11 administering SNAP. California has delegated the operation of its food stamp program to
12 county governments, and each county welfare department must administer the Food Stamp
13 program, in accordance with CDSS rules and regulations. Cal. Welf. & Inst. Code
14 §§ 10604-10605, 18902. California has named its SNAP program “CalFresh.”

15 32. To be financially eligible for CalFresh, a household, defined as a group of
16 people who purchase and prepare food together, must have income below 100% of the federal
17 poverty level after deductions that account for housing, dependent care, and medical expenses,
18 among other exclusions and deductions. 7 U.S.C. § 2014(c)(1). As of 2015, that figure for a
19 family of three is \$20,090 per year or \$1,675 per month. *Id.*; 80 Fed.Reg. 3236-37 (Jan. 22,
20 2015). Eligible households that do not have a member who is over age 60 or who is
21 considered disabled must also have income, prior to deductions, less than 200% of the federal
22 poverty level. 7 U.S.C. §§ 2014(a), (c)(2); 7 C.F.R. § 273.2(j)(2)(C); Cal. Welf. & Inst. Code
23 §18901.5; All County Letter (ACL) 14-56 (August 22, 2014) at page 2. This amount is
24 currently \$40,180 per year or \$3,349 monthly for a family of three. *See* 80 Fed. Reg.
25 3236-37.

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28 ² On June 18, 2008, Congress amended the Food Stamp Act by renaming the Food and Nutrition Act of 2008. Pub. L. No. 110-246, § 4001.

1 33. Pursuant to federal law, counties must process food stamp applications and
2 issue benefits to those eligible no later than 30 days after the date of application. 7 U.S.C.
3 § 2020(e)(3); 7 C.F.R. § 273.2(a), (g)(1), (3).

4 34. Under federal law, expedited food stamps benefits must be provided no later
5 than seven days following the date of application when eligible applicants have extremely
6 low income and resources or cannot meet their monthly housing expense. 7 U.S.C. §
7 2020(e)(9); 7 C.F.R. § 273.2(i)(1), (i)(3)(i). Federal law permits a state to adopt a shorter
8 time frame, and California has done so—benefits must be issued to households eligible for
9 expedited service within three calendar days of application. Cal. Welf. & Inst. Code §
10 18914(b); California Department of Social Services Manual of Policies and Procedures
11 (MPP) § 63-300.1.

12 35. State law further mandates that aid to the “needy and distressed” must be
13 provided “promptly and humanely.” Cal. Welf. & Inst. Code § 10000.

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STATEMENT OF FACTS

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County Non-Compliance with Regular CalFresh Processing Timeframes

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36. CDSS requires each county in the State of California to report its CalFresh
18 application statistics on a monthly basis. According to data reported by Alameda County,
19 on average 19.4% of its applications were processed late due to County delay in the past
20 year. In the most recent month for which data is available, July 2015, of the applications
21 approved, approximately 21.5% were approved late due to County delay. Of those
22 applications denied, approximately 30.5% were denied after the 30 day deadline due to
23 County delay.

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37. The following table shows the degree of late processing over the most recent
25 twelve months for which data is available:

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Table 1

CDSS DFA 296 – Alameda Data for Regular Processing of CalFresh Applications³

Month	Number of Processed Applications ⁴	Number of Late Approved Applications ⁵	Number of Late Denied Applications ⁶	Percentage of Total Late Applications ⁷
August 2014	3,739	293	286	15.5%
September 2014	3,738	293	358	17.4%
October 2014	4,061	329	392	17.8%
November 2014	3,026	264	263	17.4%
December 2014	3,246	292	263	17.1%
January 2015	3,385	317	309	18.5%
February 2015	3,134	327	276	19.2%
March 2015	3,944	443	380	20.9%
April 2015	3,788	411	286	18.4%
May 2015	3,806	438	446	23.2%
June 2015	4,310	561	327	22.9%
July 2015	4,722	653	518	24.7%
12 Month Average⁸	3,742	385	342	19.4%⁹

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³ All tables and charts are created using the Alameda County data from the CDSS Monthly DFA 296 Report (DFA 296): <http://www.cdss.ca.gov/research/P353.htm>

⁴ “Number of Total Applications” is calculated by adding “Applications approved” (Column 7), “PACF Applications denied” (Column 10), and “NACF Applications denied” (Column 11).

⁵ “Number of Late Approved Applications” is calculated by adding “PACF Applications approved in over 30 days (CWD caused)” (Column 8) and “NACF Applications approved in over 30 days (CWD caused)” (Column 9).

⁶ “Number of Late Denied Applications” is calculated by adding “PACF Applications denied in over 30 days (CWD caused)” (Column 12) and “NACF Applications denied in over 30 days (CWD caused)” (Column 13).

⁷ “Percentage of Total Late Applications” is calculated by adding “Number of Late Approved Applications” and “Number of Late Denied Applications” and dividing the total by “Number of Total Applications.”

⁸ “12 Month Average” is the average of each total over the last 12 months.

⁹ See footnote 5, *supra*.

1 38. Alameda County ranked worst of the 58 counties in the State, in timely
2 processing both approved and denied applications, according to a CDSS report of average
3 application processing times from August 2014 to July 2015.¹⁰

4 County Non-Compliance with Expedited CalFresh Processing Timeframes

5 39. For expedited service benefits, counties report data to CDSS on a quarterly
6 basis. Data reported by Alameda County show that for April through June 2015, 10.4% of
7 applications for expedited CalFresh (emergency food stamps) were paid late due to County
8 delay, and for the period from January through March 2015, 14.6% of emergency
9 applications were processed late due to County delay.¹¹

10 40. The County has a Food Stamp Handbook that provides guidance to Agency staff.
11 Handbook Section 63-03.02 states, “The 3-day timeframe shall begin the day the ET [Eligibility
12 Technician] identifies that the household meets the criteria for ES [Expedited Service] and not on
13 the date the application was filed.” This proviso directly violates the requirements in Cal. Welf.
14 & Inst. Code § 18914(b) and MPP §§ 63-301.531(a) & 63-301.522, which provide that the
15 three-day processing time for expedited benefits begins on the date the application is submitted
16 (i.e., filed).

17 41. According to this same Handbook Section, the County’s data-keeping system is
18 “not programmed correctly to report statistics of late [expedited service] determinations. Until
19 further instructions are provided...issue the benefits as soon as administratively possible.”
20 Therefore, on information and belief, the extent of the problem with untimely processing of
21 expedited CalFresh (Food Stamp) benefit applications is even worse than the data reported by the
22 County to the State.

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25 ¹⁰ These statistics are from a comparison of counties’ 12 month averages for the period
26 August 2014 to July 2015, at
<http://www.cdsscounties.ca.gov/foodstamps/res/pdf/Regular.pdf>.

27 ¹¹ This number was calculated by adding column 4a2 on p. 6 of the DFA 296X to
28 column 4a3 on p. 6 of the DFA 296X, and then dividing by the total number of expedited
services applications approved, at column 4a, on p. 5 of the DFA 296X.

1 The Problem Has Resulted in a Serious Backlog of Applications

2 42. Meanwhile, Alameda County data show the number of pending applications as
3 of its May, June, and July 2015 reports was 11,837, 11,541, and 10,657, respectively. The
4 backlog continues to exceed over *two times* the average number of applications received each
5 month.

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7 COMMON ALLEGATIONS REGARDING INJUNCTIVE AND DECLARATORY

8 RELIEF

9 43. By reason of the foregoing, an actual and present controversy has arisen and
10 now exists between Plaintiffs and the Class, on the one hand, and Defendants, on the other
11 hand. With respect to such controversy, Plaintiffs and the Class contend that Defendants
12 are violating their respective rights under the laws of the United States and the State of
13 California by failing and/or refusing timely to process CalFresh applications and by failing
14 and/or refusing timely to provide CalFresh benefits to eligible households within 30 days of
15 the date of the application or within three days of the date of the application for those
16 eligible households entitled to expedited services, while Plaintiffs and the Class are
17 informed and believe and on that basis allege that each of Defendants disputes and denies
18 each of the foregoing contentions.

19 44. A declaration by this Court that Defendants have engaged in a pattern and
20 practice of violating Plaintiffs' and the Class's rights under federal and state law to the
21 timely processing of their CalFresh applications and to the timely receipt of their CalFresh
22 benefits is therefore necessary and appropriate at this time.

23 45. Defendants' failure and refusal to comply with the time requirements of
24 federal and state law for processing CalFresh (Food Stamp) benefit applications and for
25 providing such benefits to eligible applicants has proximately resulted and, unless
26 restrained and enjoined, will continue to result in imminent and irreparable harm to
27 Plaintiffs and members of the Plaintiff Class. By continuing to fail and/or refuse to make
28 timely application decisions, Defendants' are delaying needed food assistance to Plaintiffs

1 and Class members, forcing Plaintiffs and Class members to choose between meeting their
2 nutritional needs or other basic needs. The problem has grown for over two years and
3 threatens to continue to grow, causing harm to Plaintiffs and Class members absent
4 injunctive relief.

5 46. Plaintiffs and members of the Class have no plain, adequate, or complete
6 remedy at law to address the failure to timely process applications described herein.
7 Plaintiffs and the Plaintiff Class therefore seek injunctive relief restraining Defendants from
8 engaging in the unlawful acts described herein.

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FIRST CLAIM FOR RELIEF

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(Violation of federal law by failing to provide timely CalFresh benefits)

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47. Plaintiffs re-allege and incorporate by reference each and every allegation
contained in paragraphs 1 through 46.

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48. While acting under color of law, Defendants have developed and maintained
a policy, pattern, practice, and custom of failing and/or refusing to determine CalFresh
(Food Stamp) eligibility and issue CalFresh (Food Stamp) benefits within thirty days of
application and within three calendar days of application for expedited benefits, thereby
depriving Plaintiffs and members of the Class of their respective rights under 7 U.S.C.
§§ 2020(e)(3) and (e)(9); 7 C.F.R. §§ 273.2(a)(2), (g)(1), and (i)(3)(i).

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SECOND CLAIM FOR RELIEF

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(Violation of state law by failing to provide timely CalFresh benefits)

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49. Plaintiffs re-allege and incorporate by reference each and every allegation
contained in paragraphs 1 through 46.

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50. Defendant's policy, pattern, practice, and custom of failing and/or refusing
to determine eligibility for CalFresh (Food Stamp) benefits within thirty days of application
and within three calendar days of application for expedited benefits violate the rights of

1 Plaintiffs and members of the Plaintiff Class under Cal. Welf. & Inst. Code §§ 10000,
2 18914(b); and MPP §§ 63-300.1, 63-301.531(a) & 63-301.522.

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PRAYER FOR RELIEF

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WHEREFORE, Plaintiffs and the Plaintiff Class respectfully request that this Court enter judgment in their favor and against Defendants, and each of them, as follows:

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(a) Assert jurisdiction over this action;

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(b) Certify this action as a class action on behalf of all current and future applicants for regular and expedited CalFresh (Food Stamp) benefits from Alameda County, pursuant to Rule 23(a) and Rule 23(b)(2) of the Federal Rules of Civil Procedure;

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(c) Grant a temporary restraining order and preliminary injunction *pendente lite* and a permanent injunction thereafter restraining and enjoining Defendants, and each of them and all persons acting in concert with any of them, from failing and/or refusing to process applications of, and from failing and/or refusing to issue CalFresh benefits to, Plaintiffs and the Class within federal- and state-mandated time frames;

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(d) Declare that Defendants' policy, pattern, practice, and custom of failing and/or refusing to determine regular CalFresh applications within 30 days of the date of application and expedited CalFresh applications within three days of the date of application violate the rights of Plaintiffs and the Class under federal and state law and further declare that Defendants' further policy, pattern, practice, and custom of failing and/or refusing timely to provide CalFresh benefits to eligible impoverished households in Alameda County within the time mandated under federal and state law likewise violate the rights of Plaintiffs and the Class thereunder;

1 (e) Award reasonable costs and expenses incurred in the prosecution of this
2 action, including reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988
3 and 1920 and Cal. Code of Civil Procedure § 1021.5; and

4 (f) Grant any and such other and further relief as the Court may deem just and
5 proper.

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7 Dated: September 29, 2015.

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Respectfully Submitted:

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THE PUBLIC INTEREST LAW PROJECT

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WESTERN CENTER ON LAW & POVERTY

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PILLSBURY WINTHROP SHAW PITTMAN LLP

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By _____
Lauren Hansen

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Attorneys for Plaintiffs

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