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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

CALIFORNIA ASSOCIATION OF PUBLIC
AUTHORITIES, et al.,

Plaintiff,

vs.

ARNOLD SCHWARZENEGGER, Governor
of the State of California; JOHN A.
WAGNER, Director of the California
Department of Social Services; DAVID
MAXWELL-JOLLY, Director of the
California Department of Health Care
Services; JOHN CHIANG, California State
Controller,

Defendant.

CASE NO. 10 0344

**NOTICE OF RELATED CASE
PURSUANT TO CIVIL L.R. 3-12 TO BE
FILED IN CASE NO. c. 09-02306 (CW);
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED PURSUANT TO CIVIL
L.R. 7-11**

CLASS ACTION

The Honorable Claudia Wilken

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that a related case *California Association of Public Authorities et al. v. Schwarzenegger et al.*, was filed on January 25, 2010, in the United State District Court for the Northern District of California. Pursuant to Civil Local Rules 3-12(b) and 7-11 of the United State District Court for the Northern District of California, the California Association of Public Authorities *et al.* ("CAPA") submits this Administrative Motion to Consider Whether Cases Should Be Related.

1 **I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12**

2 Under Civil Local Rule 3-12(a), an "action is related to another when: (1) The actions
3 concern substantially the same parties, property, transaction or event; and (2) It appears likely that
4 there will be an unduly burdensome duplication of labor and expense or conflicting results if the
5 cases are conducted before different judges." Civil L.R. 3-12(a).

6 Whenever a party knows or believes that an action may be related to an action which is or
7 was pending in the Northern District, said party "must promptly file in the earliest-filed case an
8 Administrative Motion to Consider Whether Cases Should Be Related, pursuant to Civil L.R. 7-
9 11."¹

10 **II. Related Cases**

11 The *California Association of Public Authorities et al. v. Schwarzenegger et al.* action
12 should be related to *Martinez v. Schwarzenegger*, Case No. C. 09-02306 CW and/or *V.L. v.*
13 *Wagner*, Case No. CV 09-04668. Both of the apparently related cases are before the Honorable
14 Claudia Wilken.

15 The *California Association of Public Authorities et al. v. Schwarzenegger et al.* action, and
16 the apparently related cases involve substantially the same defendants and concern the same
17 wrongful act and occurrences, namely the passage and implementation of Assembly Bill X4 1 as it
18 relates to In-Home Supportive Services ("IHSS") funding. As a result, the cases require
19 determination of substantially the same questions of fact and law. Specifically, each case involves
20 the State of California's failure to comply with the federal law – including the Medicaid Act, the
21 Americans with Disabilities Act, and the Rehabilitation Act – when it dramatically reduced
22 funding to the IHSS program for purely budgetary reasons. As such, the following similar
23 questions of law and fact exist one or more of the apparently related cases:

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26 ¹ "In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof of
27 service pursuant to Civil L.R. 5-6, must be served on all known parties to each apparently related
28 action. A Chambers copy of the motion must be lodged with the assigned Judge in each
apparently related case under Civil L.R. 5-1(b)." Civil L.R. 3-12(b).

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- Whether the State failed to give the required consideration to the factors of efficiency, economy, quality of care, and access to services prior to reducing IHSS services, in violation of the federal Medicaid Act, 42 U. S.C. § 1396a(a)(30)(A);
- Whether the decreased funding for IHSS services would be inconsistent with Medicaid program's mandated quality of care, and will not be sufficient to enlist enough IHSS providers so that care and services under Medi-Cal are available at least to the extent that such care and services are available to the general population in the geographic area, in violation of the federal Medicaid Act, 42 U.S.C. § 1396a(a)(30)(A);
- Whether decreased funding for IHSS services will violate the rights of Plaintiffs and class members to be free from discrimination on the basis of their disability under the ADA, 42 U.S.C. § 12132, by forcing disabled individuals who could otherwise remain in their homes to enter nursing homes or other residential institutions; and
- Whether the decreased funding to IHSS services will violate the rights of Plaintiffs and class members to be free from discrimination on the basis of their disability under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), by forcing disabled individuals who could otherwise remain in their homes to enter nursing homes or other residential institutions.

Accordingly, it appear likely that there will be an unduly burdensome duplication of labor and expense or the possibility of conflicting results if the cases proceed before different judges.

L.R. 3-12(b)(2).

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1 **III. CONCLUSION**

2 As set forth above the *California Association of Public Authorities et al. v.*
3 *Schwarzenegger et al.* action is related to the *Martinez v. Schwarzenegger*, Case No. C. 09-02306
4 CW and/or *V.L. v. Wagner*, Case No. CV 09-04668 actions.

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6 DATED: January 25, 2010

HOOPER, LUNDY & BOOKMAN, INC.

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8 By: 

CRAIG J. CANNIZZO

9 Attorneys for Plaintiffs
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PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 575 Market Street, Suite 2300, San Francisco, California 94105.

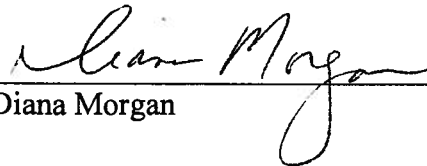
On January 25, 2010, I served true copies of the following document(s) described as **NOTICE OF RELATED CASE PURSUANT TO CIVIL L.R. 3-12 TO BE FILED IN CASE NO. C. 09-02306 (CW); ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED PURSUANT TO CIVIL L.R. 7-11** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Hooper, Lundy & Bookman, Inc.'s practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on January 25, 2010, at San Francisco, California.


Diana Morgan

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