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Plaintiff's Counsel are directed to serve this
order upon all other parties in this action.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES DAVIS, et al.,

Plaintiffs,

v.

CALIFORNIA HEALTH AND HUMAN
SERVICES AGENCY (HHS), et al.,

Defendants.

No. C00-2532 SBA

~~PROPOSED~~ ORDER GRANTING
JOINT MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT
AGREEMENTS, DIRECTING NOTICE
TO THE CLASS, FOR A SCHEDULING
ORDER AND FAIRNESS HEARING AND
FOR FINAL APPROVAL OF THE
SETTLEMENT AGREEMENTS AND
GRANTING PLAINTIFFS' MOTION
FOR REMOVAL OF CHARLES DAVIS
AS CLASS REPRESENTATIVE

Plaintiffs Charles Davis, Jackie Del Rosario, Jesse Fitchett, Lorraine Robles, Gerald Scott, Hong T., and M. W.; and the organizational Plaintiff, Independent Living Resource Center of San Francisco (ILRCFSF) ("plaintiffs"), and defendants City and County of San Francisco ("San Francisco"), California Health and Human Services Agency, Grantland Johnson, California Department of Health Services, Diana Bonta; California Department of Social Services, Rita Saenz, California Department of Mental Health, Stephen Mayberg, California Department of Aging and Lynda Terry ("defendants") (hereinafter collectively referred to as "the parties"), have filed a Joint Motion for Preliminary Approval of Class Settlement Agreements, Directing Notice to the Class, For a Scheduling Order and Fairness Hearing and For Final Approval of the Settlement Agreements (hereinafter "the Joint Motion"), which is noticed for hearing on December 16, 2003. Plaintiffs have also filed a Motion for Removal of Named Plaintiff Charles Davis as a Class Representative (the "Removal Motion"), which is also noticed for hearing on December 16, 2003.

SHARTSIS, FRIESE & GINSBURG LLP
EIGHTEENTH FLOOR
ONE MARITIME PLAZA
SAN FRANCISCO, CALIFORNIA 94111

1 In the interest of expediting implementation of the settlement agreement and dismissal of this
2 Action on the terms set forth in the Joint Motion, the parties have stipulated that no hearing is
3 required on either motion.

4 The Court, having considered the joint moving papers for the parties and the settlement
5 agreements and proposed notice to the class submitted therewith, as well as plaintiffs' moving
6 papers on the Removal Motion, and good cause appearing, IT IS HEREBY ORDERED that:

7 1. The Settlement Agreements set forth in Revised Exhibit 1 and Exhibit 2 to Swain
8 Declaration and their Exhibits and Attachments incorporated herein, are preliminarily approved,
9 subject to notice to the class and final review and approval at the Fairness Hearing as provided for
10 below.

11 2. Leave is granted to file the Third Amended Compliant, attached as Exhibit 4 to
12 Swain Declaration.

13 3. Subject to final approval of the Settlement Agreements, Plaintiffs' Third Amended
14 Complaint is dismissed without prejudice except as provided below:

15 (a) As to Defendant San Francisco, Claims 1, 2, 4, 5, and 12 are dismissed
16 without prejudice pending the San Francisco's Motion for Compliance as to Claims 1, 4, and 12
17 which will be heard by this Court on or soon after September 29, 2004 pursuant to paragraph 6 of
18 Revised Exhibit 1 to Swain Declaration. Not until San Francisco prevails in its Motion for
19 Compliance shall Claims 1, 4, and 12 be dismissed with prejudice against San Francisco only.

20 (b) As to Defendant San Francisco, there will be no final judgment entered until
21 after September 29, 2004 and as set forth in paragraph 6.4 of Revised Exhibit 1 to Swain
22 Declaration.

23 (c) As to State Defendants, all claims are dismissed without prejudice. At such
24 time that State Defendants comply with paragraphs 3, 4 and 6 of the Settlement Agreement
25 between Plaintiffs and State Defendants, (Ex. 2 to Swain Dec.) claims 3, 6 and 10 shall be
26 dismissed with prejudice as to all State Defendants, pursuant to paragraph 18 of Exhibit 2 to Swain
27 Declaration.

28

1 (d) As to State Defendants, there will be a final judgment entered only after
2 State Defendants have fully complied with paragraphs 3, 4 and 6 of the Settlement Agreement
3 between Plaintiffs and State Defendants pursuant to paragraph 18(b) of Exhibit 2 to Swain
4 Declaration.

5 4. The Court will retain jurisdiction to oversee the Settlement Agreements as follows:

6 (a) As to Defendant San Francisco, (1) the Court will preside over San
7 Francisco's motion for compliance with the Settlement Agreement set forth in Revised Exhibit I to
8 Swain Dec. and its Attachments and Exhibits and on or soon after September 29, 2004; (2)
9 Magistrate Judge Chen will hold monthly progress meetings with Plaintiffs and Defendant San
10 Francisco; and (3) Magistrate Judge Chen will monitor and enforce reporting requirements (as set
11 forth in Sections 4.5-4.6 of the Settlement Agreement in Revised Ex. 1 to Swain Dec.) prior to the
12 motion for compliance.

13 (b) As to State Defendants, the Court shall retain jurisdiction to oversee the
14 settlement agreement, but may refer oversight to Magistrate Judge Chen, for a period of 36 months
15 from the date of entry of judgment and for such time thereafter as is necessary to effectuate the
16 purpose of the Settlement Agreement, as set forth in Ex. 2 to Swain Dec.

17 5. The parties shall provide class members with notice in the form attached as Exhibit
18 3 to the accompanying Swain Declaration, and in the manner specified in the Settlement
19 Agreement between Plaintiffs and San Francisco and Joint Motion. The proposed notice to the
20 class is adequate under Rule 23 of the Federal Rules of Civil Procedure.

21 6. The parties shall adhere to the following general time schedule:

22 (a) Notice to the class shall be mailed, posted and/or published in the manner
23 specified in the settlement agreement and Joint Motion by six weeks after the Court enters this
24 Order;

25 (b) Each class member shall have until four weeks after the date for
26 mailing/posting/publishing, in order to file an objection, and/or provide notice of intent to appear,
27 as the case may be, under the procedures specified in the Settlement Agreement, Joint Motion, and
28 Notice to Class. Such date shall be determined by the postmark of the document filed;

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(c) The parties shall thereafter have two weeks after the final date for filing objections to file responses to objections, if any, from class members.

7. The Court shall conduct a Fairness Hearing on July 13, 2004 at 1:00 p.m. for the purpose of adjudging final approval of the Settlement Agreements.

8. Class plaintiff Charles Davis be removed as a named class representative in the within action.

9. The proposed Class Action Settlement Agreements that have been reached between Plaintiffs and Defendants in this action may be preliminarily approved without actual notice to, and signatory approval from, class plaintiff Charles Davis, thereby enabling the remaining parties to proceed with notice to the class and to a Fairness Hearing for final Settlement Agreement approval.

DATED: 12-17-03


The Honorable Sandra Brown Armstrong
U.S. District Court Judge

ALH06154001\1251731.01

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CHARLES DAVIS,

Plaintiff,

v.

CA HEALTH AND HUMAN SERV.,

Defendant.

Case Number: CV00-02532 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 18, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kimberly Swain
Protection and Advocacy, Inc.
433 Hegenberger Rd
Ste 220
Oakland, CA 94621

Dated: December 18, 2003

Richard W. Wicking, Clerk
By: LISA R CLARK, Deputy Clerk