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 7

FILED
 ALAMEDA COUNTY

AUG 16 2021

CLERK OF THE SUPERIOR COURT
 By *[Signature]* Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF ALAMEDA

19 **ANALILIA JIMENEZ PEREA, et al.,**
 20 Plaintiffs,
 21 v.
 22 **CALIFORNIA DEPARTMENT OF**
 23 **HEALTH CARE SERVICES, et al.,**
 24 Defendants.

Case No. RG17867262
 ASSIGNED FOR ALL PURPOSES TO
 JUDGE Winifred Y. Smith
 DEPARTMENT 21
STIPULATION AND ~~PROPOSED~~
ORDER GRANTING PLAINTIFFS
LEAVE TO FILE SUPPLEMENT TO
THIRD AMENDED VERIFIED
PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

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1 The parties to this action, through their undersigned counsel, stipulate and request an order
2 as follows:

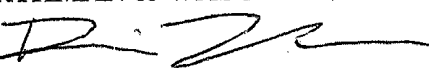
3 WHEREAS, Plaintiffs seek leave to file the Supplement to Third Amended Verified
4 Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (“Proposed
5 Supplement”), attached hereto as Exhibit A, based on alleged factual developments since
6 Plaintiffs filed their TAC; and

7 WHEREAS, Defendants, without waiving any right to respond by answer, dispositive
8 motion, or otherwise to Plaintiffs’ Proposed Supplement, do not oppose Plaintiffs’ request;

9 THEREFORE, the parties STIPULATE to the filing of the Proposed Supplement.
10 *The Proposed Supplement is not deemed filed.*

11 Dated: August 12, 2021

Respectfully submitted,

FEINBERG, JACKSON,
WORTHMAN & WASOW LLP
By: 
Catha Worthman (SBN 230399)
Darin Ranahan (SBN 273532)
Andrea Obando (SBN 312640)
*Attorneys for Petitioners and the
Putative Class*

18 Dated: August 12, 2021

Respectfully Submitted,

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/s/ Dane C. Barca
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[PROPOSED] ORDER

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Pursuant to the parties' stipulation, the Court hereby ORDERS that Plaintiffs may file the proposed Supplement to Third Amended Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, a copy of which is attached to the stipulation as Exhibit A.

SO ORDERED.

Dated: August 16, 2021

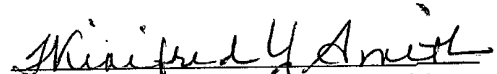

The Honorable Winifred Y. Smith

EXHIBIT A

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13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF ALAMEDA

15 ANALILIA JIMENEZ PEREA, SAUL
JIMENEZ PEREA, ESTHER CASTAÑEDA,
16 REBECCA BINSFELD, OFELIA JARDON,
on behalf of themselves and a proposed class
of others similarly situated; the
17 HEALTHCARE JUSTICE DIVISION OF
THE SERVICE EMPLOYEES
18 INTERNATIONAL UNION-UNITED
HEALTHCARE WORKERS WEST; ST.
19 JOHN'S WELL CHILD & FAMILY
CENTER; and NATIONAL DAY LABORER
20 ORGANIZING NETWORK,

21 Plaintiffs,

22 v.

23 CALIFORNIA DEPARTMENT OF HEALTH
CARE SERVICES; CALIFORNIA HEALTH
24 AND HUMAN SERVICES AGENCY;
MARK GHALY, as Secretary, California
25 Health and Human Services Agency; WILL
LIGHTBOURNE, as Director, California
26 Department of Health Care Services; and
DOES ONE through TWENTY inclusive,

27 Defendants.
28

Case No. RG17867262

ASSIGNED FOR ALL PURPOSES TO
JUDGE Winifred Y. Smith
DEPARTMENT 21

**SUPPLEMENT TO THIRD
AMENDED VERIFIED PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF (Code Civ.
Proc. § 464)**

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I. INTRODUCTION

1. In the over two years since Plaintiffs filed their Third Amended Complaint, the global COVID-19 pandemic has resulted in a healthcare crisis that has further exacerbated already significant inequalities in health and economic outcomes between marginalized communities of color and the wealthy. Developments in California have underscored the devastating consequences of the State’s long-term disinvestment from Medi-Cal as Latinos—who have borne the brunt of the COVID-19 pandemic in California—have come to comprise an increasing share of its participants. The effects of long-term disinvestment from Medi-Cal have been compounded by contemporary policy decisions, resulting in increased vulnerability to COVID-19 for the Latino population, and the highest infection and death rates for any large demographic group in the state.

II. FACTUAL ALLEGATIONS

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A. **Disinvestment from Medi-Cal Drove COVID-19’s Disparate Impact on Latinos in California.**

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2. The long-term disinvestment and mismanagement of Medi-Cal detailed in the Third Amended Complaint set the stage for COVID-19’s devastating impact on Latinos in California. Disinvestment from Medi-Cal has contributed to its participants disproportionately bearing untreated or improperly treated health conditions that have left them vulnerable to severe cases of COVID-19. The substandard medical care resulting from Defendants’ historic disinvestment from Medi-Cal has left people with risk factors for COVID-19—including, for example, people with diabetes, asthma, and heart disease—at increased risk of negative outcomes from COVID-19. For example, from 2011 to 2018, adult Medi-Cal beneficiaries with diabetes were about twice as likely as adult diabetics with Medicare or employer-sponsored insurance to report they were “not too/not at all confident” they could control and manage their diabetes. Because Latinos make up a disproportionately large percentage of the Medi-Cal population, this increased risk has disproportionately impacted members of Latino communities and their healthcare providers.

1 3. Disinvestment from Medi-Cal has hollowed out the medical resources that provide
2 surge capacity in the event of a pandemic. “Safety net” hospitals, which rely heavily on
3 reimbursements from Medi-Cal, were devastated by the pandemic. These hospitals were overrun
4 with COVID-19 patients, affecting their ability to provide care for all of their patients. Some
5 overwhelmed hospitals were unable to transfer patients to hospitals with open beds because the
6 receiving hospitals—who have lost confidence in Medi-Cal due to the Defendants’ decades-long
7 disinvestment from, and mismanagement of, the program as detailed in the Third Amended
8 Complaint—were averse to accepting Medi-Cal patients. Because of this inability to transfer
9 patients, hospitals serving the Latino community were overwhelmed by COVID-19 patients and
10 subsequently unable to properly care for their patients. Meanwhile, hospitals that typically serve a
11 higher proportion of privately insured patients—a whiter population—had a surplus of ICU beds
12 available. Similarly, community clinics serving Medi-Cal participants were overwhelmed with
13 COVID-19 patients, who were unable to access other care due to Defendants’ disinvestment from
14 Medi-Cal and the administrative burdens set forth in the Third Amended Complaint.

15 4. The access problems created by disinvestment have led to disproportionate
16 reliance on hospitals by Medi-Cal participants. As a result, Medi-Cal participants, the majority of
17 whom are Latino, have faced increased exposure to COVID-19 infection given the high rate of
18 hospital-acquired COVID-19 infection, particularly during the early phase of the pandemic. For
19 example, Medi-Cal participants have experienced substantially higher rates of preventable
20 hospitalizations for diabetes and other chronic conditions when compared to those with private
21 insurance. In addition, Medi-Cal participants are disproportionately likely to rely on emergency
22 rooms as their primary source of care due to inability to access regular outpatient care.

23 5. The same problems in access to care faced by Medi-Cal participants for other
24 treatments, detailed at length in the Third Amended Complaint, have applied to their attempts to
25 receive care for COVID-19. For example, physicians and clinicians that might otherwise treat
26 Medi-Cal participants with COVID-19 have refused to accept Medi-Cal for such treatment due to
27 the corresponding reimbursement rates.

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1 6. To the extent that access to care for both COVID-19 and other conditions was
2 delayed for everyone due to the closure of medical offices and surging demand, such delays were
3 significantly worse for Medi-Cal participants than the general insured population. Moreover, the
4 consequences of postponed health care during the pandemic are falling and will continue to fall
5 disproportionately on Medi-Cal participants. Medi-Cal participants, to a greater degree than the
6 general insured population, faced delayed and cancelled health care appointments, and postponed
7 treatments during the pandemic, including routine health care appointments, management of
8 chronic conditions, and treatment for serious health issues. Pent-up demand is overwhelming the
9 health care system, and Medi-Cal participants are facing worse access problems than the general
10 insured population as a result of Defendants' long-term disinvestment from the program.

11 **B. The State's Response to the COVID-19 Pandemic Furthered the Disparities**
12 **Resulting from Its Prior Disinvestment.**

13 7. The State's response to COVID-19 exacerbated disparities that had resulted from
14 its long-term policy of disinvestment from Medi-Cal. For example, the State's emphasis on
15 telehealth and remote access to care left out Medi-Cal participants, who are disproportionately
16 likely to face difficulties accessing telehealth, such as lacking adequate access to the internet.
17 Going into the pandemic, Medi-Cal participants were the least likely of any insured group to
18 access care via video or telephone, leaving them ill equipped to take advantage of the shift to
19 telehealth.

20 8. In addition, the State only distributed doses of monoclonal antibody infusion
21 therapy for COVID-19 treatment to hospitals rather than to community clinics that
22 disproportionately serve the Latino community and Medi-Cal participants, such as Plaintiff St.
23 John's Well Child & Family Center. St. John's eventually received doses from the federal
24 government and provided the treatment to over 100 high-risk patients. .

25 9. Once COVID-19 vaccines were developed and produced, the California
26 Department of Public Health, which falls under Defendant California Health and Human Services
27 Agency, failed to prioritize immunization of the uniquely vulnerable California Latino
28 population. Throughout the vaccine distribution period, Latinos in California have been

1 hospitalized and have died due to COVID-19 at a higher rate than other ethnic groups. Latinos
2 were the most vulnerable large ethnic group in California during the pandemic. Yet, the State
3 failed to prioritize this high-risk population for vaccinations and other medical care. For example,
4 rather than prioritizing vaccinations based on high-risk medical conditions, the State instead
5 prioritized vaccinations primarily by age. This decision further increased the risk to the Latino
6 population, which has the lowest proportion of people age 65 and over of any racial or ethnic
7 category in the state (6.9%). By contrast, a quarter of White people are age 65 or older (24.5%).
8 Over 60% of all Californians aged 65 and over are White; only 18% are Latino. By way of
9 contrast, several other states prioritized high-risk conditions, people of color, and underserved
10 communities in their 1b and 1c phases of vaccine distribution. Latinos in California have received
11 a smaller share of vaccinations compared to their share of cases and share of the total population.
12 In California, White people were 1.4 times as likely as Latinos to have received the vaccine.

13 **C. The Pandemic Has Devastated Medi-Cal Participants and Latinos in California.**

14 10. Compared to White people, Latinos have been more than twice as likely to suffer
15 infection, hospitalization, and death because of COVID-19. In California, the death rate for
16 Latinos ages 18 to 34 has consistently been five times higher than the White death rate for the
17 same age group; for Latinos ages 20 to 54, the rate was eight and a half times higher than the
18 White death rate for the same age group.

19 11. Medi-Cal participants suffered disproportionately during the pandemic both in
20 terms of access to physician care and in terms of COVID-19 hospitalizations compared to people
21 with other forms of insurance. Medi-Cal participants struggled to find providers to treat COVID-
22 19 who accepted Medi-Cal. They also faced long delays trying to access non-COVID health care
23 services they needed. Additionally, utilization of children's preventive services in Medi-Cal have
24 declined significantly during COVID-19, which could result in negative long-term health
25 consequences for affected children.

26 12. The odds of a COVID-19-related hospitalization and greater illness severity for
27 patients with diabetes are three- to four-fold higher than patients without diabetes. This disparity
28 is exacerbated by insurance type.

1 13. Since May 2020, the CDC has been tracking Multisystem Inflammatory Syndrome
2 in Children (MIS-C), a rare but serious condition associated with COVID-19. Nationwide, a
3 plurality (approximately 33%) of reported patients with MIS-C are Latino, with the highest
4 concentration in California. While only 57% of children in Los Angeles County are Latino,
5 Latinos represented about 74% of MIS-C cases in the county as of June 4, 2021.

6 14. The COVID-19 crisis and its disparate impact on Latinos is ongoing: California is
7 currently experiencing a pandemic of unvaccinated people. The rise of the Delta variant of the
8 coronavirus is focusing new attention on the dangers still posed for people who have not been
9 fully vaccinated against COVID-19. For example, of 123 people recently confirmed to have been
10 infected with the Delta variant in Los Angeles County, 110 were unvaccinated and three were
11 partially vaccinated. Meanwhile, the White population in Los Angeles County is 50% more likely
12 to be fully vaccinated than the Latino population, making the Latino community more susceptible
13 to the Delta variant surge, and potentially other variants in the future.

14 * * *

15 15. The California Latino community's experience during this pandemic will continue
16 to affect their interactions with health care in the future, in the immediate sense as they face
17 continued delays and denials of needed health care treatment, and also over the long term. These
18 harms trace directly to Defendants' historic disinvestment from and mismanagement of the Medi-
19 Cal program as its participant population has become predominantly Latino, coupled with
20 prioritization of pandemic responses that disproportionately served the state's White population.
21 Defendants' disinvestments in Medi-Cal and the devastation caused to Latinos by COVID-19,

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1 and the delays and disparities in the state's COVID-19 response, have eroded trust in the state and
2 its healthcare systems, and will further exacerbate disparities in chronic conditions and future
3 health crises.

4
5 Respectfully submitted,

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15 Dated: August __, 2021

By:

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