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11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 13 WESTERN DIVISION

15 **SIERRA MEDICAL SERVICES**  
 16 **ALLIANCES, et al.,**  
 17 Plaintiffs,  
 18 v.  
 19 **DAVID MAXWELL-JOLLY,**  
 20 **Director of the Department of Health**  
 21 **Care Services of the State of**  
 22 **California, CALIFORNIA**  
 23 **DEPARTMENT OF HEALTH CARE**  
 24 **SERVICES,**  
 Defendants.

CV10-04182 SJO (Ex)  
 Honorable S. James Otero  
**NOTICE OF MOTION AND**  
**MOTION FOR STAY**  
 Date: August 9, 2010  
 Time: 10:00 a.m.  
 Courtroom: 1  
 Action Filed: June 4, 2010

25 **TO PLAINTIFFS AND THE ATTORNEYS OF RECORD:**

26 **PLEASE TAKE NOTICE** that on August 9, 2010 at 10:00 a.m. in  
 27 Courtroom 1 of the above-entitled court, located at 312 N. Spring Street in Los  
 28 Angeles, California, Defendants David Maxwell-Jolly (the Director), Director of

1 the California Department of Health Care Services (the Department), and the  
2 Department will, and hereby do, move for an order staying this case pending  
3 resolution of the Director's Petitions for Certiorari in the United States Supreme  
4 Court in *Independent Living Center of Southern California, et al. v. Shewry*,  
5 U.S.S.C. Case No. 09-958, (*Independent Living*), and *California Pharmacists*  
6 *Association, et al. v. Maxwell-Jolly*, U.S.S.C. Case No. 09-1158.

7 Plaintiffs' complaint challenges California Code of Regulations, title 22,  
8 section 51527 (section 51527), which provides Medi-Cal reimbursement rates for  
9 medical transportation services. Plaintiffs contend section 51527 violates the  
10 Supremacy Clause because it was enacted without regard to the requirements of 42  
11 U.S.C. section 1396a(a)(30)(A) (section 30(A)). However, the issue of whether  
12 private parties may enforce section 30(A) through a Supremacy Clause claim is  
13 currently pending before the United States Supreme Court in the Director's Petition  
14 for Certiorari in *Independent Living*. On May 24, 2010, the Supreme Court invited  
15 the Solicitor General to file a brief in *Independent Living*. Defendants seek to stay  
16 any new proceedings in this case while the Director's Petition for Writ of Certiorari  
17 in *Independent Living* is pending to preserve the resources of the Court and parties.

18 In addition, Plaintiffs have already litigated and lost the same issues  
19 presented in this case in a parallel state court proceeding, *Sierra Medical Services,*  
20 *Inc., et al. v. Department of Health Care Services, et al.*, Los Angeles Superior  
21 Court Case No. BS 114671. The state court proceeding is currently on appeal to  
22 the California Court of Appeal. This matter should be stayed under the *Colorado*  
23 *River* doctrine pending the outcome of the appeal. *Colorado River Water*  
24 *Conservation Dist. v. United States*, 424 U.S. 800, 817, 96 S. Ct. 1236, 47 L. Ed. 2d  
25 483 (1976).

26 On July 1, 2010, and in accordance with Local Rule 7-19.1, Defendants gave  
27 notice to Plaintiffs' counsel of their intent to file an ex part application for an order  
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1 staying the case, or in the alternative, for an order shortening time for the motion to  
2 stay to be heard.

3 This Motion for a Stay is based on this Notice of Motion and Motion, the  
4 Memorandum of Points and Authorities, the Declaration of Deputy Attorney  
5 General Tracey L. Angelopoulos and Exhibits thereto, and all other records on file  
6 with the Court in this matter.

7 Dated: July 6, 2010

Respectfully submitted,  
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/s/ Tracey L. Angelopoulos

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