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11
12 UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14
15 LESLIE NAPPER, JANET FISCHER, JACQUIE
EICHHORN-SMITH, TED YANELLO, and
16 LYNDA MANGIO, on behalf of themselves and
all others similarly situated,

17 Plaintiffs,

18 v.

19 COUNTY OF SACRAMENTO; BOARD OF
SUPERVISORS OF THE COUNTY OF
20 SACRAMENTO; County Supervisor ROGER
DICKINSON; County Supervisor JIMMIE YEE;
21 County Supervisor SUSAN PETERS; County
Supervisor ROBERTA MACGLASHAN; County
22 Supervisor DON NOTTOLI; SACRAMENTO
COUNTY DEPARTMENT OF BEHAVIORAL
23 HEALTH SERVICES; ANN EDWARDS-
BUCKLEY, Director, Department of Behavioral
24 Health Services; MARY ANN BENNETT, Mental
25 Health Director,

26 Defendants.

Case No. 2:10-cv-1119

CLASS ACTION

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY INJUNCTION**

Date: TBD
Time: TBD
Place: Courtroom 6, 14th Floor
Judge: Hon. John A. Mendez

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1 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION**

2 TO DEFENDANTS COUNTY OF SACRAMENTO; BOARD OF SUPERVISORS OF
3 THE COUNTY OF SACRAMENTO; County Supervisor ROGER DICKINSON; County
4 Supervisor JIMMIE YEE; County Supervisor SUSAN PETERS; County Supervisor ROBERTA
5 MACGLASHAN; County Supervisor DON NOTTOLI; SACRAMENTO COUNTY
6 DEPARTMENT OF BEHAVIORAL HEALTH SERVICES; ANN EDWARDS-BUCKLEY,
7 Director, Department of Behavioral Health Services; MARY ANN BENNETT, Mental Health
8 Director, AND THEIR ATTORNEYS OF RECORD:

9 PLEASE TAKE NOTICE that, at a date and time to be determined¹, before the Honorable
10 John A. Mendez, in Courtroom 6, United States District Court, Eastern District of California,
11 located at 501 I Street, Suite 4-200, Sacramento, CA, Plaintiffs individually and on behalf of
12 members of the proposed class will move the Court pursuant to Rule 65(a) of the Federal Rules of
13 Civil Procedure and Rule 231(d) of the Local Civil Rules for an order issuing a Preliminary
14 Injunction:

15 (a) Enjoining Defendants and their respective successors in office, agents, servants,
16 employees, attorneys, and all persons in active concert therewith from terminating or reducing the
17 funding for the four Regional Support Team (“RST”) programs, the Transitional Community
18 Opportunities for Recovery and Engagement (“TCORE”) program and the Consumer Self Help
19 Wellness and Recovery Center and from terminating, reducing or making any further reductions
20 in medically necessary, outpatient mental health service for Medi-Cal recipients in the County
21 unless and until the Court has determined that Plaintiffs and members of the proposed class:

22 (i) will continue to receive these outpatient mental health services in the most
23 integrated setting possible for Plaintiffs and individual class members so as to avoid their
24 unnecessary institutionalization; and

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26 _____
27 ¹ Concurrently with this motion, Plaintiffs are filing an *ex parte* application requesting a hearing
28 on their Motion for Preliminary Injunction on July 7, 2010.

1 (ii) will continue to receive comparable outpatient mental health services from
2 other Medi-Cal providers in the County and that they will receive these outpatient mental health
3 services in a timely manner and to the same extent as Medi-Cal recipients elsewhere in
4 California.

5 (b) Enjoining Defendants and their respective successors in office, agents, servants,
6 employees, attorneys, and all persons in active concert therewith from terminating, reducing,
7 denying, suspending or interrupting the provision of any outpatient mental health services to any
8 Plaintiff or member of the proposed class unless the Plaintiff and/or member of the proposed class
9 has first been provided a notice of action as required by 42 Code of Federal Regulations
10 § 431.230(a) and California Code of Regulations, title 22, § 51014.1, an opportunity to request an
11 administrative hearing to challenge such an adverse action, and the continuation of these
12 outpatient mental health services pending such an administrative hearing if there has been a
13 timely request for a hearing.

14 (c) Enjoining Defendants and their respective successors in office, agents, servants,
15 employees, attorneys, and all persons in active concert therewith to restore any outpatient mental
16 health services which were available to Medi-Cal recipients in the County as of March 1, 2010,
17 and that have been terminated or reduced since that date.

18 The Motion will be made on the grounds that Plaintiffs are likely to succeed on the merits
19 of their claims; Plaintiffs and the proposed class will suffer irreparable injury unless the
20 Defendants' actions are enjoined; the balance of the equities tip sharply in Plaintiffs' favor; and
21 the requested injunction is in the public interest.

22 Plaintiffs further request that the Court waive the requirement for the posting of a bond as
23 security for the entry of preliminary relief, on the grounds of Plaintiffs' indigency.

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1 This Motion for a Preliminary Injunction is based upon this Notice of Motion and Motion;
2 the accompanying Memorandum of Points and Authorities; all accompanying declarations and
3 exhibits; all pleadings and papers on file in this action; and such other matters as may be
4 presented to the Court at the time of the hearing. Plaintiffs do not intend to present any oral
5 testimony at the hearing on the preliminary injunction motion. *See* Local Rule 231(d)(3).

6 Dated: June 8, 2010

Respectfully submitted,

7 COOLEY LLP

8
9 By: /s/ William S. Freeman
10 WILLIAM S. FREEMAN

11 Attorneys for Plaintiffs

12 850864 v3/HN