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ENPROSEB  
Superior Court of California  
County of San Francisco

DEC 9 2008

GORDON PARK-LI, Clerk  
DEC 9 2008 CRISTINA BALTIOTA  
Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

15 WILFREDO COREA, ROBYN PAIGE, )  
16 LISA QARE, )

17 Petitioners )

18 vs. )

19 CITY & COUNTY OF SAN FRANCISCO; )  
20 BOARD OF SUPERVISORS OF THE )  
CITY & COUNTY OF SAN FRANCISCO; )  
21 SAN FRANCISCO DEPARTMENT OF )  
PUBLIC HEALTH; SAN FRANCISCO )  
HEALTH COMMISSION; DOES 1 -20; )

22 Respondents. )  
23

Case No. **PF-08-509118**

Petition for Writ of Ordinary Mandamus  
(CCP §1085) & Administrative Mandamus  
(CCP §1094.5)

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27 Petition for Writ of Ordinary Mandamus (CCP 1085)  
& Administrative Mandamus (CCP 1094.5)  
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1 **I. INTRODUCTION**

2 1. This lawsuit challenges respondents' failure to provide necessary medical services in  
3 conformity with the requirements of law.

4 2. As set out below, respondents are violating their legal duties by failing to ensure that:

5 A. charges for necessary medical services to persons entitled to those services pursuant  
6 to California Welfare & Institutions Code (W&IC) §17000 are based upon patients' ability to  
7 pay;

8 B. no fee is required of any person before rendering medically necessary services to  
9 persons entitled to services pursuant to W&IC §17000; and

10 C. collection activities and actions used by San Francisco General Hospital (SFGH) and  
11 its collection agents comply with the requirements of law.

12 3. As a result of respondents' failure to comply with these legal duties, persons seeking  
13 medical services from respondents are being forced to incur and/or pay unlawful charges that  
14 they cannot afford or skip necessary medical services, including prescription medications.

15 4. Welfare and Institutions Code (W&IC) §17000 "imposes upon counties a mandatory  
16 duty to 'relieve and support all incompetent, poor, indigent persons, and those incapacitated by  
17 age, disease, or accident,' when those persons are not relieved and supported by some other  
18 means." Included within the requirements of §17000 is a "mandatory duty upon all counties to  
19 provide 'medically necessary care,' not just emergency care," to county indigents who have no  
20 other means to care for themselves. *County of San Diego v. State of California*, 15 Cal.4th 68,  
21 104-105 (1997).

22 5. W&IC §17001 requires each county to "adopt standards of aid and care for the  
23 indigent and dependent poor." Counties' eligibility standards must "carry out" the objectives of  
24 §17000. *Mooney v. Pickett*, 4 Cal.3d 669, 679 (1971). To comply, the eligibility standards must  
25 "take into account the financial ability of residents to obtain subsistence medical care." *Hunt v.*  
26 *Superior Court*, 21 Cal.4th 984, 1021 (1991).

1           6. Respondents have adopted and implemented a policy and practice of imposing a wide  
2 variety of charges for necessary medical services to persons entitled to those services pursuant to  
3 California Welfare & Institutions Code (W&IC) §17000 which does not take into account the  
4 financial ability of those persons to pay those charges, including a \$25 fee per emergency room  
5 visit/treatment; \$5-\$25 fee per prescription medication; \$10 fee per urgent care treatment; \$100  
6 fee for same day surgical treatment; and \$200 fee if admitted to respondents' San Francisco  
7 General Hospital.

8           7. Respondents' policy and practice of assessing fees and charges for necessary medical  
9 services to persons entitled to those services pursuant to W& IC §17000 is not based upon a  
10 determination of what persons entitled to medical services pursuant to W&IC §17000 can afford  
11 to pay.

12           8. W&IC §16804.1(a) requires that "[n]o fee shall be required of any person before a  
13 county renders medically necessary services to persons entitled to services pursuant to Section  
14 17000."

15           9. Respondents have implemented policies and practices which illegally condition the  
16 provision of necessary medical care to persons entitled to services under W&IC §17000 upon the  
17 payment of co-payments and other charges.

18           10. Health and Safety Code (H&SC) §§127420 and 127425 require that, at the time of  
19 billing, hospitals and their collection agencies must provide a written summary of their discount  
20 payment and charity care policies, including information about eligibility as well as contact  
21 information.

22           11. Prior to commencing any collection action against a patient, the hospital or its  
23 collection agency must provide the patient with a clear and conspicuous written notice which  
24 includes a plain language summary of the patient's rights pursuant to H&SC §127400 *et. seq.*;  
25 the Rosenthal Fair Debt Collection Practices Act; and the federal Fair Debt Collection Practices  
26 Act and a statement that nonprofit credit counseling services may be available. H&SC §127430.

1           12. Respondents policies and practices fail to comply with their legal duties, as set forth  
2 at H&SC §127400 *et. seq.*

3           13. Those persons who are entitled to medical services pursuant to W&IC §17000 have a  
4 property interest in that aid. Such an interest requires that respondents' administration of medical  
5 services pursuant to §17000 must meet the requirements of due process of law.

6           14. As set out below, respondents have failed to implement policies and practices which  
7 ensure that medical services provided pursuant to W&IC §17000 comply with the requirements  
8 of due process of law.

9           15. Petitioners seek a writ of ordinary mandate pursuant to Code of Civil Procedure  
10 §1085 and preliminary and permanent injunctions enjoining respondents from refusing:

11           a. to ensure that all persons entitled to medical services pursuant to W&IC §17000 are  
12 provided with those services in a manner which takes into account their ability to pay in  
13 conformity with the requirements of law;

14           b. to provide necessary medical services to patients entitled to those services pursuant to  
15 W&IC §17000 without first requiring co-payments or other fees; and

16           c. to comply with the requirements of due process of law in providing medical services to  
17 all persons entitled to those services pursuant to W&IC §17000 .

18           16. Petitioners also seek a writ of ordinary mandate and preliminary and permanent  
19 injunctions enjoining respondents from refusing to fully comply with the legal requirements of  
20 H&SC §127400 *et seq.* when billing patients who received services at SFGH.

21           17. Petitioners seek writs of mandate pursuant to CCP §1094.5 and CCP §1085 requiring  
22 that respondents provide petitioners and all other applicants for medical services benefits  
23 pursuant to W&IC §17000 with the opportunity to challenge a denial, discontinuance, or  
24 termination of aid; present evidence in support of their eligibility; and receive a corrective  
25 payment of benefits in the form of reimbursement of out-of-pocket costs paid for necessary  
26 medical services where such a challenge is successful.

## II. PARTIES

### Petitioner Wilfredo Corea

18. Petitioner Wilfredo Corea is and has continuously been a resident a resident of San Francisco, California since about 1980. Mr. Corea is 61 years of age. Due to his severe economic circumstance, Mr. Corea was forced to depend upon respondents for necessary medical services pursuant to W&IC §17000 from 2006 - June 2008.

19. From 1980 - 2006, Mr. Corea worked in a restaurant as a kitchen assistant, bus boy and janitor.

20. During 2006, Mr. Corea was forced to stop working as a result of severe back pain and prostrate problems. From approximately October 2006 - September 2007, Mr. Corea's only income was \$722 in State Disability Insurance (SDI) benefits. After his SDI ran out, Mr. Corea received a County General Assistance cash grant of \$422, from approximately October 2007 - June 2008. In June, 2008, Mr. Corea was approved for Social Security / SSI Disability of \$895 per month.

21. From 2006 - June 2008, Mr. Corea had no health insurance coverage and could not afford to pay for necessary medical services and medicines. During this period, he was forced to rely upon respondents for necessary medical services, including:

- (a) surgery for a severe prostrate condition;
- (b) follow-up treatment for prostrate surgery;
- (c) prescription medications for pain, high blood pressure and diabetes.

22. Respondents' required that Mr. Corea pay co-payments for all prescription medications before they were provided. The co-payments varied from \$5 - \$34 per medication. Because he could not always afford these charges, Mr. Corea was forced to either borrow money to pay the charges; forego medications prescribed to treat diabetes and pain; get free samples from his doctor; or, upon occasion, borrow pain medication from other patients. As a result, Mr. Corea did not receive all of the care he needed and was charged more than he could afford.

1           23. Respondents' have adopted and implemented policies and practices which require  
2 payment of prescription medication co-payments regardless of ability to pay as a condition of  
3 receiving the medications. The co-payments were not established within conformity of the  
4 requirements of W&IC §§17000 and 17001.

5           24. As a result of respondents' described policies and procedures, Mr. Corea has been  
6 illegally forced to pay out-of-pocket for necessary medical services as a condition of receiving  
7 those services. This is an underpayment of benefits by respondents, entitling Mr. Corea to a full  
8 refund of all amounts paid, plus interest.

9           25. In addition to charging mandatory co-payments for the prescription medications,  
10 respondents have repeatedly billed Mr. Corea thousands of dollars for the costs of hospital stays,  
11 surgeries and other necessary medical services that were provided to treat his prostate problems.  
12 Respondents are aware of Mr. Corea's low income during this period, including that he received  
13 County General Assistance from October 2007 - June 2008. During this period of time, Mr.  
14 Corea was entitled to necessary medical services without charge pursuant to W&IC §§ 17000 and  
15 17001.

16           26. The charges assessed to Mr. Corea are unlawful and do not comply with the  
17 requirements of W&IC §§ 17000 and 17001.

18           27. Mr. Corea has paid some of these illegal charges, creating an underpayment of  
19 benefits by respondents. Mr. Corea is entitled to a full refund of all amounts paid to respondents  
20 and /or their collection agents, plus interest.

21           28. In January 2008, Mr. Corea's doctor prescribed eye surgery. Respondents initially  
22 told him that he must pay \$300 in advance as a condition of obtaining the surgery. Mr. Corea  
23 could not afford this charge. Eventually, after Bay Area Legal Aid intervened concerning this  
24 matter, respondents agreed to provided the necessary medical service without charge.

25           29. Respondents' charges, as described above, are contrary to the requirements of W&IC  
26 §§17000, 17001, 10000, 10500, and 16804.1(a).

1           30. Respondents have failed to establish charges for necessary medical services pursuant  
2 to W&IC §§17000 and 17001 based upon ability to pay, as required by law.

3           31. Respondents' billing notices routinely do not contain information about the  
4 availability of the hospital's discount payment and charity care policies and information about  
5 how to apply for these programs, as required by H&SC §127400 *et seq.*

6           32. Respondents' billing notices indicate that collection activity may be taken if the bills  
7 are not paid. These notices do not include (1) a plain language summary of the patient's rights  
8 pursuant to H&SC §127400 *et seq.*, the Rosenthal Fair Debt Collection Practices Act, and the  
9 federal Fair Debt Collection Practices Act and (2) a statement that nonprofit credit counseling  
10 may be available in the area. *Id.* at §127430(a).

11           33. Respondents did not inform Mr. Corea that they have a duty to provide necessary  
12 medical services pursuant to W&IC §17000 based upon his ability to pay or allow him to avoid  
13 those charges by demonstrating that he could not afford charges for necessary medical services  
14 and prescription medications. As a result, Mr. Corea has incurred thousands of dollars of illegal  
15 medical debt, paid illegal charges for necessary medical services, and been forced to forgo  
16 critical prescription medications for pain and other serious medical conditions.

17 **Petitioner Robyn Paige**

18           34. Petitioner Robyn Paige is a 50 year-old resident of San Francisco, California and has  
19 resided in San Francisco, California at all times relevant to this action.

20           35. In March 2008, Ms. Paige suffered severe injuries to her spine, foot, and hips as a  
21 result of a fall.

22           36. As a result of these injuries, Ms. Paige was hospitalized at San Francisco General  
23 Hospital (SFGH) for approximately one month.

24           37. Respondents have and continue to bill Ms. Paige in excess of \$359,000 for the March  
25 2008 SFGH hospitalization and subsequent medical treatments. Ms. Paige is a person entitled to  
26 necessary medical services pursuant to W&IC §§17000 and 17001.



1           38. Respondents' billing notices do not contain information about the availability of  
2 necessary medical services pursuant to W&IC §17000; the hospital's discount payment and  
3 charity care policies; or information about how to apply for these programs, as required by law.  
4 Instead, they state that Ms. Paige "may be responsible for the total charge."

5           39. Respondents' billing notices do not contain any summary of the Rosenthal Fair Debt  
6 Collection Practices Act, the federal Fair Debt Collection Practices Act or a statement that  
7 nonprofit credit counseling may be available in the area, as required by law. See, Health & Safety  
8 Code §127430(a).

9           40. Upon discharge from SFGH, Ms. Paige was prescribed medications to alleviate  
10 severe pain resulting from the injuries to and surgeries to her spine, foot, and hips. Respondents  
11 assessed \$25 per prescription as a condition of receiving these pain medications.

12           41. Ms. Paige is unable to afford the charges for the prescription medications. As a  
13 result, she has had to either borrow money to pay for the medications or, when she could not  
14 borrow money to pay these charges, forego the medications and suffer with constant, extreme  
15 pain. These charges are an underpayment of benefits owed by respondents to Ms. Paige pursuant  
16 to W&IC §17000. Ms. Paige is entitled to a full refund of these amounts paid to respondents  
17 plus interest.

18           42. Respondents' have adopted and implemented policies and practices which require  
19 payment of prescription medication co-payments regardless of ability to pay as a condition of  
20 receiving the medications.

21           43. Respondents' charges, as described above, are contrary to the requirements of W&IC  
22 §§17000, 17001, 10000, 10500, and 16804.1(a).

23           44. Respondents did not inform Ms. Paige that she might be eligible for necessary  
24 medical services and/or prescription medications based upon her ability to pay or how to show  
25 that she could not afford charges for necessary medical services and prescription medications.

26           43. Respondents have failed to establish charges for necessary medical services pursuant

1 to W&IC §§17000 and 17001 based upon ability to pay, as required by law.

2 45. The denial of pain medication has resulted in Ms. Paige having to miss follow-up  
3 medical appointments, including examinations for continuing numbness in her arms and legs.

4 **Petitioner Lisa Qare**

5 46. Petitioner Lisa Qare is a 21 year-old resident of San Francisco, California.

6 47. Ms. Qare has been diagnosed with Multiple Sclerosis (MS).

7 48. As a result of the MS, Ms. Qare has developed severe bilateral optic neuropathy, a  
8 condition which has resulted in severe injury to her optic nerve and the loss of her peripheral  
9 vision.

10 49. Prior to October 2008, Ms. Qare received regular treatment from the UCSF Multiple  
11 Sclerosis Clinic. As part of her treatment, she was prescribed to receive regular, weekly  
12 injections of the prescription medication Rebif. The UCSF MS Clinic has diagnosed that regular  
13 injection treatments of Rebif are "critical" for preserving Ms. Qare's remaining eyesight.

14 50. Prior to October 2008, Ms. Qare qualified for the Medi-Cal and California Children's  
15 Services (CCS) health care programs which paid for the Rebif and other necessary health care  
16 services at the UCSF MS Clinic.

17 51. As a result of reaching 21 years of age, Ms. Qare's CCS eligibility was terminated in  
18 June 2008 and her Medi-Cal eligibility was terminated in September 2008, leaving her unable to  
19 afford continuing care at the UCSF MS Clinic.

20 52. Ms. Qare does not have any income, any savings or other resources to afford the  
21 costs of continued care at the UCSF MS Clinic or the cost of the Rebif injections.

22 53. Ms. Qare applied to respondents to provide her MS medical treatments, including the  
23 Rebif injections. Ms. Qare's application was approved on or about October 1, 2008.

24 54. Initially, respondents' Health Center offered Ms. Qare an appointment in December  
25 2008. When Ms. Qare and her father explained that she needed to see someone immediately  
26 because she would run out of Rebif and has no way to pay for the medication, the appointment

1 was scheduled for November 4, 2008, leaving Ms. Qare with approximately three weeks where  
2 she would have no Rebif or any way to pay or otherwise obtain Rebif.

3 55. When Ms. Qare contacted respondents' Customer Service Center to complain about  
4 the delayed appointment and not having Rebif during the interim she was referred back to the  
5 Health Center which did not change the appointment from November 4, 2008.

6 56. Ms. Qare asked the Health Center pharmacy for Rebif and was told that it was not on  
7 the list of medications that the Health Center provides.

8 57. Respondents' actions, as described above, are contrary to the requirements of W&IC  
9 §§17000, 17001, 10000, and 10500.

10 58. Respondents have failed to establish charges for necessary medical services pursuant  
11 to W&IC §§17000 and 17001 based upon ability to pay, as required by law.

12 59. In denying Ms. Qare's requests for coverage of Rebif during October 1-10, 2008,  
13 respondents failed to provide a written notice explaining the basis for the denial or how to  
14 appeal/contest a denial.

15 60. After respondents' denial of Rebif, Ms. Qare applied to the MS Lifeline, a program  
16 sponsored by Pfizer, the manufacturer of Rebif, for a charity grant of the medication.

17 61. On or about October 10, 2008, Ms. Qare was notified that she has been approved by  
18 Pfizer for a charity grant of Rebif but that the program could end "at any time."

### 19 Respondents

20 62. Respondents Board of Supervisors of the City and County of San Francisco  
21 ("CCSF"), City and County of San Francisco, San Francisco Department of Public Health  
22 ("DPH") and the San Francisco Health Commission are responsible for overseeing, managing,  
23 controlling and providing public health services within the City and County of San Francisco in a  
24 manner which complies with all requirements of law.

25 63. Petitioners are ignorant of the true names and capacities of respondent DOES 1 - 20  
26 and therefore sue these by such fictitious names. Petitioners are informed and believe and

1 therefore allege that each of the fictitiously named respondents is responsible in some manner for  
2 the occurrences and injuries alleged herein. Petitioners will amend this action to state the true  
3 names and capacities of these respondents when they are ascertained.

4 64. Petitioners are informed and believe and therefore allege that each of the  
5 respondents, including the DOE respondents, acted in concert with each and every other  
6 respondent, intended to and did participate in the events, acts, practices and courses of conduct  
7 alleged herein and was a proximate cause of the damage and injuries, as alleged herein.

8 **III. STATUTORY AND REGULATORY FRAMEWORK**

9 **A. Duty to Provide Necessary Medical Services**

10 65. Under state law, each of California's counties is responsible for ensuring that its  
11 residents who cannot otherwise provide for themselves have access to the basic necessities of life.  
12 These basics include shelter, food, clothing and necessary medical services. W&IC §17000.

13 66. Respondents must ensure that necessary medical services are administered in a  
14 manner "to secure for every person the amount of aid to which he is entitled." W&IC §10500.

15 67. County assistance - including necessary medical services - must be provided  
16 promptly, humanely, appropriately, with due regard for the preservation of life. W&IC §10000.

17 68. Each county's Board of Supervisor or an agency designated by county charter is  
18 responsible for adopting standards of aid and care under W&IC §17001.

19 69. The Board of Supervisors of each county, or the agency authorized by county charter,  
20 must adopt standards for ensuring that the county's indigent residents are able to actually obtain  
21 access to these basic necessities. W&IC §17001.

22 70. The San Francisco City Charter further delegates the responsibility for managing and  
23 controlling San Francisco's county hospitals and generally providing for the physical and mental  
24 health of the residents of San Francisco to respondent San Francisco Health Commission (Health  
25 Commission) and respondent San Francisco Department of Public Health (DPH). San Francisco  
26 City Charter, §4.110.

1 71. Respondents have adopted and implemented a policy and practice of charges for  
2 necessary medical services to persons entitled to those services pursuant to California Welfare &  
3 Institutions Code (W&IC) §17000, including

- 4 • a \$25 fee per emergency room visit/treatment for persons whose incomes are 0 -  
5 100% of the Federal Poverty Level and who are not homeless or receiving  
6 government assistance; and
- 7 • for persons whose incomes are over 100% of the Federal Poverty Level: a \$25 fee  
8 per emergency room visit/treatment; \$5-\$25 fee per prescription medication; \$10  
9 fee per urgent care treatment; \$10 fee per primary care treatment; \$100 fee for  
10 same day surgical treatment; and \$200 fee if admitted to respondents' San  
11 Francisco General Hospital.

12 72. Respondents' policy and practice of assessing fees and charges for necessary medical  
13 services to persons entitled to those services pursuant to W& IC §17000 is not based upon a  
14 determination of what persons entitled to medical services pursuant to W&IC §17000 can afford  
15 to pay. Respondents' fees and charges for necessary medical services, as described above, is  
16 having the direct effect of denying services to persons entitled to those services pursuant to  
17 W& IC §17000.

18 73. W&IC §16804.1(a) requires that "[n]o fee shall be required of any person before a  
19 county renders medically necessary services to persons entitled to services pursuant to Section  
20 17000."

21 **B. Health & Safety Code §127400 et seq.**

22 74. Health and Safety Code (H&SC) §127400 et seq. establishes legal duties which  
23 respondents must meet with regard to their low-income, uninsured patients who receive medical  
24 services at San Francisco General Hospital (SFGH).

25 75. At the time of billing for SFGH services, respondents must provide patients with a  
26 written statement which includes information about the availability of the hospital's discount

1 payment and charity care policies and information about how to apply for these programs.

2 H&SC §§127425(c); 127410(a).

3 76. Prior to commencing any collection activities against a patient for services received  
4 at SFGH, respondents and their collection agents must provide the patient with a clear and  
5 conspicuous written notice containing (1) a plain language summary of the patient's rights  
6 pursuant to H&SC §127400 *et seq.*, the Rosenthal Fair Debt Collection Practices Act, and the  
7 federal Fair Debt Collection Practices Act and (2) a statement that nonprofit credit counseling  
8 may be available in the area. *Id.* at §127430(a). The notice required by (a) must also accompany  
9 any document indicating that collection activities may commence. *Id.* at §127430(b).

10 77. Respondents must reimburse patients any amounts paid with interest in excess of that  
11 which would be due under H&SC §127400 *et seq.* *Id.* at §127440.

#### 12 IV.

#### 13 **First Cause of Action** 14 **(Violation of Welf. & Inst. Code §§17000 and 17001)**

15 78. Petitioners reallege and incorporate by reference each and every allegation contained  
16 within paragraphs 1-77.

17 79. WIC §17000 requires that "[e]very city and county shall relieve and support all  
18 incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident,  
19 lawfully resident therein, when such persons are not [otherwise] supported or relieved..."

20 80. Respondents have a legal duty to establish standards of aid and care for providing  
21 necessary medical services and ensure that all eligible persons are provided services pursuant to  
22 those standards of aid and care. W&IC §17001.

23 81. Respondents are violating these duties in that they are failing to ensure that  
24 petitioners and other persons who are eligible for medical services pursuant to W&IC §17000 are  
25 provided with all necessary medical services - including necessary prescription medications -  
26 based upon their ability to pay.

1 82. Respondents' policy and practice of fees and charges for necessary medical services,  
2 as described above, is having the direct effect of illegally denying persons who are eligible for  
3 medical services pursuant to W&IC §17000 access to medically necessary services or forcing  
4 those persons to incur medical debt that they cannot afford in order to pay for necessary services.

5 83. Respondents' policy and practice of assessing fees and charges for necessary medical  
6 services to persons eligible for those services pursuant to W&IC §17000, as described above,  
7 violates the requirements of W&IC §§17000 and 17001 in that those fees and charges are not  
8 based upon the ability of persons eligible for services pursuant to §17000 to pay the fees and  
9 charges.

10 84. Respondents' actions amount to a violation of their legal duties pursuant to W&IC  
11 §§17000 and 17001.

12 **Second Cause of Action**  
13 **(Violation of W&IC §16804.1(a))**

14 85. Petitioners reallege and incorporate by reference each and every allegation contained  
15 within paragraphs 1-84.

16 86. W&IC §16804.1(a) mandates that "[n]o fee shall be required of any person before a  
17 county renders medically necessary services to persons entitled to services pursuant to [W&IC]  
18 Section 17000."

19 87. Respondents have implemented policies and procedures requiring the payment of  
20 fees before rendering necessary medical services to persons who are eligible for medical services  
21 pursuant to W&IC §17000. These policies and procedures violates the requirements of W&IC  
22 §16804.1(a).

23 **Third Cause of Action**  
24 **(Violation of Welf. & Inst. Code §10500)**

25 88. Petitioners reallege and incorporate by reference each and every allegation contained  
26 within paragraphs 1-87.

27 89. The Legislature has mandated that respondents ensure that "[e]very person

1 administering aid under any public assistance program...shall endeavor at all times to perform his  
2 duties in such a manner as to secure for every person the amount of aid to which he is entitled..."  
3 W&IC §10500.

4 90. Respondents' failure to ensure that all San Franciscans who are eligible for medical  
5 services pursuant to W&IC §17000 are able to obtain those necessary medical services regardless  
6 of ability to pay and without incurring illegal charges is a violation of respondents' duty under  
7 W&IC §10500.

8 **Fourth Cause of Action**  
9 **(Violation of Welf. & Inst. Code §10000)**

10 91. Petitioners reallege and incorporate by reference each and every allegation contained  
11 within paragraphs 1-90.

12 92. The Legislature has mandated that respondents must provide aid pursuant to  
13 California's Public Social Services - including necessary medical services under W&IC §17000 -  
14 "promptly and humanely" and so as to "encourage self-respect, self-reliance, and the desire to be  
15 a good citizen, useful to society." W&IC §10000.

16 93. Respondents' failure to ensure that all indigent San Francisco residents who are  
17 eligible for medical services pursuant to W&IC §17000 are able to promptly obtain necessary  
18 medical services regardless of ability to pay and without incurring illegal charges is a violation of  
19 respondents' duty under W&IC §10000.

20 **Fifth Cause of Action**  
21 **(Violation of Due Process of Law)**

22 94. Petitioners reallege and incorporate by reference each and every allegation contained  
23 within paragraphs 1-93.

24 95. Respondents are failing to provide all patients with notice of the availability medical  
25 services based upon ability to pay, pursuant to W&IC §17000. Patients who indicate that they  
26 cannot afford the cost of necessary care and are denied medical services are not provided with a  
27 written explanation of the basis for the denial and how to contest the denial, in violation of due



1 process of law as secured by the California State Constitution.

2 **Sixth Cause of Action**  
3 **(Violation of Health & Safety Code §§127410 & 127425)**

4 96. Petitioners reallege and incorporate by reference each and every allegation contained  
5 within paragraphs 1-95.

6 97. Respondents failure to ensure that all written collection notices sent by or on behalf  
7 of SFGH provide patients with a written statement which includes information about the  
8 availability of necessary medical services pursuant to W&IC §17000; the hospital's discount  
9 payment and charity care policies; and information about how to apply for these programs  
10 violates the requirements of H&SC §§127425(c); 127410(a).

11 **Seventh Cause of Action**  
12 **(Violation of Health & Safety Code §§127430(a)&(b))**

13 98. Petitioners reallege and incorporate by reference each and every allegation contained  
14 within paragraphs 1-97.

15 99. Respondents' failure to ensure that SFGH and its collection agents provide all SFGH  
16 patients with a clear and conspicuous written notice containing (1) a plain language summary of  
17 the patient's rights pursuant to H&SC §127400 *et seq.*, the Rosenthal Fair Debt Collection  
18 Practices Act, and the federal Fair Debt Collection Practices Act and (2) a statement that  
19 nonprofit credit counseling may be available in the area violates Health & Safety Code  
20 §127430(a).

21 100. Respondents have a legal duty to ensure that the written notice required by H&SC  
22 §127430(a) accompany any document indicating that collection activities may commence.

23 **Eighth Cause of Action**  
24 **(Mandamus - CCP §1085)**

25 101. Petitioners reallege and incorporate by reference each and every allegation  
26 contained within paragraphs 1-100.

27 102. Respondents have a clear and present duty to provide necessary medical services in

1 conformity with the requirements of state and to ensure that all eligible persons promptly receive  
2 all aid for which they are eligible. As described above, respondents are failing to comply with  
3 these legal duties.

4 103. Petitioners lack a plain, speedy and adequate remedy at law except by way of  
5 peremptory writ of mandate pursuant to CCP §1085.

6 **Ninth Cause of Action**  
7 **(Mandamus - CCP §1094.5)**

8 104. Petitioners reallege and incorporate by reference each and every allegation  
9 contained within paragraphs 1-103.

10 105. Respondents have a legal duty to provide applicants for medical services pursuant to  
11 W&IC §17000 - including these petitioners - with an opportunity to demonstrate their eligibility  
12 for aid, present evidence in support of their eligibility, and challenge a denial of aid.

13 WHEREFORE, petitioners pray as follows:

14 1. For a preliminary and permanent injunction and a peremptory writ of mandate finding  
15 that respondents' failure to ensure that petitioners and other similarly situated individuals who  
16 eligible for medical services from respondents pursuant to W&IC §17000 are provided with  
17 those services without regard to ability to pay is a violation of law and enjoining respondents  
18 from refusing to immediately implement the policies and procedures necessary to ensure that all  
19 persons who are eligible for medical services pursuant to W&IC §17000 are able to obtain those  
20 services in conformity with the requirements of law.

21 2. For a peremptory writ of mandate and preliminary and permanent injunction  
22 enjoining respondents from refusing to provide all applicants for medical aid pursuant to W&IC  
23 §17000 with the opportunity to:

24 A. receive personalized notice of an eligibility determination which includes a summary  
25 of costs and fees and notice that care must be provided in accordance with ability to pay;

26 B. present evidence in support of their eligibility; and

27 C. the opportunity to contest the denial of medical services pursuant to W&IC §17000.

1 3. For a peremptory writ of mandate and a preliminary and permanent injunction  
2 enjoining respondents from refusing to issue corrective payments to petitioners and all other  
3 individuals who were wrongfully required to pay charges for medical services as a result of the  
4 violations of law complained herein.

5 4. For a preliminary and permanent injunction and a peremptory writ of mandate finding  
6 that respondents failure to ensure that all written collection notices sent by or on behalf of SFGH  
7 provide patients with:

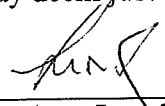
- 8 • a written statement which includes information about the availability of the  
9 hospital's discount payment and charity care policies and information about how  
10 to apply for these programs; and
- 11 • a plain language summary of the patient's rights pursuant to H&SC §127400 *et*  
12 *seq.*, the Rosenthal Fair Debt Collection Practices Act, and the federal Fair Debt  
13 Collection Practices Act and a statement that nonprofit credit counseling may be  
14 available in the area

15 violates the requirements of law, as set out above, and enjoining respondents from refusing to  
16 immediately implement those policies and procedures necessary to ensure that all written  
17 collection notices sent by or on behalf of SFGH comply with the requirements of H&SC  
18 §127400 *et seq.*, as set out above, and from refusing to ensure that any charges or fees collected  
19 from patients in violation of H&SC §127400 *et seq* are refunded with interest, as required by  
20 law.

21 5. For costs of this action, including reasonable attorneys fees payable to the Western  
22 Center on Law and Poverty. Bay Area Legal Aid does not seek attorneys fees.

23 6. For such other and further relief as this court may deem just and proper.

24 Dated: December 30, 2008

25   
26 Bay Area Legal Aid  
27 Western Center on Law & Poverty

28 Attorneys for Petitioners

1 VERIFICATION

2 I, the undersigned, declare:

3 That I am a petitioner in the above-entitled action; that I speak and read Spanish; that  
4 Virginia Leyva of the Bay Area Legal Aid has reviewed and explained the contents of the  
5 foregoing Petition For Writ of Mandate to me in Spanish; and that, as a result of this translation I  
6 have reviewed the foregoing Petition For Writ of Mandate and that I certify that the factual  
7 allegations contained therein are true to the best of my knowledge.

8 I declare under penalty of perjury of the laws of the State of California that the foregoing  
9 is true and correct.

10 Executed on November 19, 2008 at San Francisco, California.

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13 Wilfredo Corea  
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VERIFICATION

I, the undersigned, declare:

That I am a petitioner in the above-entitled action; that I have reviewed the foregoing Petition For Writs of Ordinary Mandamus and Administrative Mandamus and that I certify the allegations contained therein are true and accurate to the best of my knowledge.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed on December 16, 2008 at San Francisco, California.

  
Robyn Paige

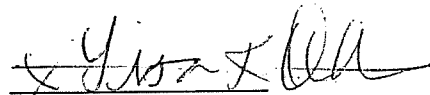
1 VERIFICATION

2 I, the undersigned, declare:

3 That I am a petitioner in the above-entitled action; that I have reviewed the foregoing Petition  
4 For Writs of Ordinary Mandamus and Administrative Mandamus and that I certify the allegations  
5 contained therein are true and accurate to the best of my knowledge.

6 I declare under penalty of perjury of the laws of the State of California that the foregoing is  
7 true and correct.

8 Executed on December 22, 2008 at San Francisco, California.

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10 Lisa Qare

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