

1 The federal Food Stamp Act and implementing regulations require Defendant
2 to process food stamp applications and issue a decision within seven (7) days of the date of
3 application for expedited food stamps, within thirty (30) days of the date of application for
4 regular food stamps, and to process recertification applications so there is no break in food
5 stamp benefits. For over the last 24 months, Defendant has failed to process timely the food
6 stamp applications.

7 B. Defendant's Statement of the factual and legal basis for Defendant's defenses:

8 Defendant accepts incomplete applications and holds the applications open until the
9 applicant is able to provide complete information. As a result, Defendant's statistics include
10 applications that have not been processed within federal time frames due to applicant delays
11 in providing complete information.

12 Defendant also allows applicants to reschedule eligibility interviews, which cause a
13 delay in processing those applications as well. Defendant does not currently track the cause
14 of the delay in processing applications. Defendant is in the process of obtaining those
15 statistics. Until those statistics are available, Defendant cannot state with any degree of
16 accuracy whether the Department is at fault in failing to process food stamp applications
17 within the federal time frames.

18 **II. The Elements of Proof:**

19 A. For each count of Plaintiffs' First Amended Complaint:

20 1. Defendant is responsible for processing food stamp applications pursuant to
21 federal statute and regulations. 7 U.S.C. § 2020(a), (d) and (e); Arizona Administrative
22 Code, R6-14-101 *et seq.*

23 2. Defendant must process expedited food stamp applications within 7 days of the
24 date of application. 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2(i)(3)(i).

25 3. Defendant must process regular food stamp applications within 30 days of the
26 date of application. 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2(a)(g)(1).

27 4. Defendant must notify current food stamp recipients of the need to file
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1 recertification applications and process those applications and issue a decision prior to the
2 end of the recertification period. 7 U.S.C. § 2020(e)(4); 7 C.F.R. § 273.14(a).

3 5. Defendant has failed to process expedited, regular and recertification
4 applications in a timely manner. *Withrow v. Concannon*, 942 F.2d 1385, 1387 (9th Cir.
5 1991).

6 B. For Defendant's Affirmative Defenses:

7 1. If a delay in processing an application is caused by the applicant, the applicant
8 will not receive benefits within the specified federal time frames. 7 C.F.R. § 273.2(h)(2).

9 2. Defendant is not accountable for delays caused by applicants.

10 **III. The factual and legal issues genuinely in dispute and whether they can be
narrowed:**

11 A. Plaintiff: Whether defendant has failed to process food stamp applications
12 pursuant to federal statutory and regulatory time requirements.

13 B. Defendant: Whether any delays in processing food stamp applications are
14 attributable to Defendant.

15 **IV. The jurisdictional basis for the case:**

16 42 U.S.C. § 1983; 28 U.S.C. § 1331 and 1343(a)(4).

17 **V. All parties have been served and Defendant has filed an Answer.**

18 **VI. There are no parties not subject to the Court's jurisdiction.**

19 **VII. Dispositive Motions:**

20 The parties have not filed any dispositive motions but may file them in the future.

21 **VIII. Reference to arbitration, special master or United States Magistrate Judge:**

22 The parties do not request reference of this case to arbitration, special master or
23 United States Magistrate Judge at this time.

24 **IX. Related cases pending before other Judges or Courts:**

25 None.

1 **X. Initial Disclosures:**

2 The parties will make their initial disclosures by December 1, 2004.

3 **XI. Suggested changes to discovery:**

4 The parties do not suggest any changes to the limitations on discovery imposed by
5 Rule 26(b)(2).

6 **XII. Discovery:**

7 The parties will complete discovery by June 30, 2005. The parties do not think there
8 is a need to conduct discovery in phases.

9 **XIII. Proposed Deadlines:**

10 A. Initial Disclosures:

11 The parties will make their initial disclosures by December 1, 2004.

12 B. Addition of parties or amending Complaint:

13 April 25, 2004.

14 C. Discovery:

15 All discovery will be completed by June 30, 2005. This date exceeds 180 days
16 because Defendant wants to start to track delays it claims are attributable only to applicants
17 and will produce its first report March 1, 2005. Defendant states that a minimum of 3 months
18 data is needed to assess the percent of untimely processed applications that are attributable to
19 applicants. Plaintiffs do not object to this request to extend the discovery date, but reserve
20 their rights to object to the manner and accuracy of Defendant's reporting of the alleged
21 applicant delay.

22 D. Dispositive Motions:

23 Dispositive motions will be filed by August 15, 2005.

24 E. Disclosure of Expert Witnesses:

25 Plaintiffs will disclose any expert witnesses by May 2, 2005.

26 Defendant will disclose any expert witnesses by May 23, 2005.

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1 Plaintiffs will disclose any rebuttal experts by June 14, 2005.

2 F. Witness List:

3 The parties will exchange witness lists by May 1, 2005.

4 G. Settlement status reports:

5 The parties will submit settlement status reports every 60 days.

6 H. Filing of Pre-trial Statement:

7 The parties will file a Pre-trial Statement by September 15, 2005.

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9 **XIV. Evidentiary Hearings:**

10 At this point, the parties do not plan any evidentiary hearings prior to trial.

11 **XV. Estimated date the case will be ready for trial and estimated length of trial:**

12 The case will be ready for trial by November 15, 2005, and the estimated length of
13 trial is three (3) days.

14 **XVI. Jury Trial:**

15 There is no request for a jury trial.

16 **XVII. Prospects of Settlement:**

17 The parties are in the process of discussing settlement. The parties will advise the
18 Court at a later date if they desire a settlement conference.

19 **XVIII. Class action certification and other issues:**

20 Plaintiffs have filed a motion for class certification. Defendant filed its objections and
21 Plaintiffs' reply will be filed later this month.

22 **IXX. Other issues:**

23 There are no other issues to bring to the Court's attention at this time.

24 **XX. Suggestions to expedite disposition of case:**

25 The parties have no additional suggestions to expedite disposition of the case.

26 Respectfully submitted this 1st day of December 2004.

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1 OFFICE OF THE ATTORNEY GENERAL

WELFARE LAW CENTER, INC.

2 ORGANIZATION

3
4 By _____

By

5 Name
6 Title
7 Organization
8 Address
9 City, State ZIP

Name
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Attorneys for Defendant

Attorneys for Plaintiffs

9 ORIGINAL and one copy of the foregoing
10 mailed this 1st day of December 2004, to:

11 Clerk's Office
12 United States District Court
13 405 West Congress Street, Suite 150
14 Tucson, Arizona 85701-1510

15 COPY of the foregoing mailed this
16 1st day of December 2004, to:

17 Name
18 Title
19 Organization
20 Address
21 City, State ZIP
22 Attorney for Defendant