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12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF LOS ANGELES**

15 ADVOKIDS, HEATHER WHELAN,  
16 PATRICK J. GUSKE, and CARRIE  
17 CHUNG,

18 Petitioners and Plaintiffs,

19 vs.

20 COUNTY OF LOS ANGELES, LOS  
21 ANGELES COUNTY DEPARTMENT OF  
CHILDREN AND FAMILY SERVICES,  
22 PHILLIP BROWNING and DOES 1-10,

23 Respondents and Defendants.

Case No: BS 150163

[Assigned to the Honorable Luis A. Lavin -  
Department 82]

**FIRST AMENDED PETITION FOR WRIT  
OF MANDATE UNDER C.C.P. SECTION  
1085 AND COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF UNDER  
C.C.P. SECTION 526 (a)**

Complaint Filed:	August 6, 2014
Discovery Cut-Off:	By Code
Motion Cut-Off:	By Code
Trial:	None Set

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Superior Court of California  
County of Los Angeles

**NOV 24 2014**

Sherri R. Carter, Executive Officer/Clerk  
By N. DiGiambattista, Deputy

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I.

**INTRODUCTORY STATEMENT**

1. Petitioners and Plaintiffs Advokids, a non-profit organization, Heather Whelan, a foster parent, de facto parent, and adoptive parent, Patrick J. Guske, a foster parent and adoptive parent, and Carrie Chung, a former foster parent and currently an adoptive parent and licensed family therapist, bring this action because Respondent and Defendant Los Angeles County Department of Children and Family Services (“DCFS”) routinely fails to provide foster parents with the requisite notices of court hearings concerning children in their care and fails to comply with regulations and other requirements that entitle foster parents to written notice and an opportunity to object and be heard when foster children are removed from their homes.

2. The California Legislature has found and declared that:

“Foster parents are one of the most important sources of information about the children in their care. Courts, lawyers, and social workers should have the benefit of caregivers' perceptions. Both federal and state law recognize the importance of foster parents' participation in juvenile court proceedings. Federal law requires that foster parents and other caregivers receive expanded opportunities for notice, the right to participate in dependency court review and permanency hearings, and the right to communicate concerns to the courts. State law similarly provides that caregivers may submit their concerns to courts in writing.”

Welf. & Inst. Code §16010.4(b).

3. Welfare and Institutions Code § 293(a)(6) and (c), for example, mandate that when the court has removed a child from the physical custody of his or her parent or legal guardian, DCFS shall give notice of review hearings to the current caregiver of the child. Welfare and Institutions Code § 294(a)(8) mandates that foster parents “shall” receive advance notice of any hearings to decide whether children in their care be placed for adoption or in long term foster care and that these foster parents may thereafter attend all hearings and submit information in writing to the juvenile court. Welfare and Institutions Code, § 295(a)(6) similarly mandates that foster parents “shall” receive advance notice of any hearings to review the status of a permanent plan of

1 adoption or legal guardianship for children within their care. In all these cases, the foster parents  
2 may attend these hearing and submit written information to the juvenile court. DCFS Procedural  
3 Guide 0300-306.05, *Petitions*, p.4. Additionally, state regulations and DCFS Procedural Guides  
4 entitle foster children’s caregivers to: receive written notice in most circumstances before foster  
5 children are removed from a foster home; submit written administrative grievances objecting to  
6 the removal of children, and be given speedy and fair review and decision of these grievances by  
7 DCFS’ Director.

8 4. All too often, DCFS does not, however, comply with the requirements of the  
9 Welfare and Institutions Code, California Rules of Court, regulations of the California  
10 Department of Social Services, and DCFS’ own procedures in keeping foster parents apprised of  
11 what is being or will be done with the foster children living in their homes.

12 5. As a result of DCFS’ violations of its legal duties, juvenile dependency courts are  
13 deprived of relevant information regarding the current status of foster children, and make judicial  
14 decisions about foster children without the benefit of readily-available information. Foster  
15 parents and other caregivers are an especially critical source of information in part because too  
16 few DCFS employees are responsible for monitoring these children’s welfare.

17 6. A series of grand jury investigations, management audits, and governmental  
18 commissions over a period of many years has concluded that DCFS either does not gather the  
19 information it needs to protect foster children, or fails to put it to proper use. In its 1999-2000  
20 report, the Los Angeles County Civil Grand Jury excoriated the County’s foster care system,  
21 observing that “[t]he best interests of the child are rarely paramount in considering the placement  
22 options for children in the system.” The Grand Jury further reported that “[f]oster parents have  
23 the fewest rights or protections and often have the least amount of information about the children  
24 in their home and about the system overall...Foster parents are typically left out of critical  
25 decision-making processes (e.g., they are not allowed in court), although they spend the most  
26 time with the child.” In March, 2012, California’s State Auditor concluded that DCFS has  
27 “struggled to perform required assessments of homes and caregivers prior to placing children with  
28 relatives.” The following month, Los Angeles County’s Children’s Special Investigations Unit

1 delivered to the Board of Supervisors a *Report Regarding DCFS Recurring Systemic Issues*,  
 2 which identified at least 13 child deaths that might have been prevented had Respondents taken  
 3 basic steps to assess risks. As recently as April 18, 2014, Los Angeles County’s Blue Ribbon  
 4 Commission on Child Protection issued a report entitled *The Road to Safety for Our Children*,  
 5 which concluded that “judges confirmed that the judicial system operates under the burden of too  
 6 many cases and, at times, incomplete or inaccurate information.”

7 7. Given all of DCFS’ shortcomings, it is more important than ever that judicial  
 8 decision makers consider information submitted by children’s caregivers before making high-  
 9 stakes rulings that affect children’s lives. What the best interests of the child are must be  
 10 determined case-by-case, and will vary for each child. Sometimes, being reunited with a family  
 11 member is the best outcome. Sometimes it is not. In either case, the Legislature has mandated  
 12 that juvenile dependency courts should receive the information they can, from the sources that  
 13 have pertinent information, including in particular foster parents, to make the best possible  
 14 decision based on the available evidence.

15 8. Petitioners and Plaintiffs (“Petitioners”) have brought this action to prohibit  
 16 Respondents and Defendants DCFS, its current Director and the County of Los Angeles  
 17 (“Respondents”) from failing to comply with their legal duties on providing notice to foster  
 18 parents regarding the children in their care. Petitioners are seeking such relief by a writ of  
 19 mandate pursuant to Code of Civil Procedure § 1085 or, in the alternative, by a taxpayer action  
 20 for injunctive and declaratory relief pursuant to Code of Civil Procedure § 526a.

21 **II.**  
 22 **PARTIES**

23 9. Petitioner Advokids (“Advokids”) is a non-profit organization incorporated in the  
 24 State of California. Its activities are supported by donors who donate funds and volunteer hours,  
 25 subscribers who subscribe to the organization’s online newsletter and receive e-mail  
 26 announcements, and professionals in child welfare and related fields who participate in a  
 27 Community Advisory Committee. Advokids’ supporters include current foster parents who  
 28 reside in and pay taxes in Los Angeles County. With headquarters in Corte Madera, California,

1 and a branch office in Los Angeles County, Advokids operates a telephone “hotline” (1-877-  
2 ADVOKID) which provides free legal and procedural information and referrals for children’s  
3 caregivers, relatives, Court Appointed Special Advocates (“CASA”) volunteers, social workers,  
4 children’s attorneys, and anyone concerned about a child in foster care in California. Advokids  
5 also maintains a website (www.advokids.org) to inform advocates for foster children about  
6 juvenile dependency law, agency procedures, and court procedures. Advokids conducts trainings  
7 for lawyers, CASA volunteers, social workers, mental health providers and foster and adoptive  
8 parents. The organization promotes public awareness of the needs of foster children for safety,  
9 security, placement stability, mental and physical health services. The organization advocates for  
10 improved standards of practice in juvenile courts and improved access to juvenile courts for foster  
11 child advocates, including caregivers, many of whom at all relevant times have been residents of  
12 Los Angeles County. Advokids regularly offers training classes to Los Angeles County  
13 professionals and foster parents, informs the public about the rights of foster parents to notice and  
14 participation in juvenile court proceedings, and advocates for improved child welfare practices.  
15 Advokids diverts resources to informing caregivers of Respondents’ obligations to provide them  
16 with notices regarding dependency court hearings and the grievance procedures relating to foster  
17 children’s removal from their homes. Advokids has a direct beneficial interest in Respondents’  
18 performance of their legal duties alleged below. Advokids also has a beneficial interest as a  
19 citizen since this lawsuit involves question of public right and seeks to enforce public duties.

20 10. Petitioner Heather Whelan is a fifth-grade schoolteacher who resides in Los  
21 Angeles County. Ms. Whelan has been a certified foster parent since 2010. During that time, she  
22 has provided foster care for 18 children in the Los Angeles County foster care system for which  
23 she has received foster care maintenance payments for each child in her care. Ms. Whelan  
24 currently is the foster parent to two foster children. This Petitioner has a direct beneficial interest  
25 in Respondents’ performance of their legal duties alleged below. Ms. Whelan also has a  
26 beneficial interest as a citizen since this lawsuit involves question of public right and seeks to  
27 enforce public duties. She has additionally paid a property tax to the County of Los Angeles and  
28 income tax to the State of California within one year before the commencement of this action.

1           11.     Petitioner Patrick J. Guske is an aeronautical engineer who resides in Los Angeles  
2 County. Mr. Guske and his wife have been certified foster parents since 2012. During that time,  
3 they have provided foster care to five children in the Los Angeles County foster care system for  
4 which they have received foster care maintenance payments for each child in their care. In 2013  
5 they adopted two of these foster children. This Petitioner has a direct beneficial interest in  
6 Respondents' performance of their legal duties alleged below. Mr. Guske also has a beneficial  
7 interest as a citizen since this lawsuit involves question of public right and seeks to enforce public  
8 duties. He has additionally paid a property tax to the County of Los Angeles and income tax to  
9 the State of California within one year before the commencement of this action.

10           12.     Petitioner Carrie Chung is a licensed Clinical Social Worker who resides in Los  
11 Angeles County. Between 2008 and 2012, Ms. Chung provided foster care for four children in  
12 the Los Angeles County foster care system for which she received foster care maintenance  
13 payments for each child in her care. She adopted two of these four foster children. Ms. Chung  
14 has a direct beneficial interest in Respondents' performance of their legal duties alleged below.  
15 Ms. Chung also has a beneficial interest as a citizen since this lawsuit involves question of public  
16 right and seeks to enforce public duties. She has additionally paid an income tax to the State of  
17 California within one year before the commencement of this action.

18           13.     Respondent and Defendant County of Los Angeles ("County") is a local  
19 governmental entity, duly authorized and formed under the laws of the State of California. Gov't  
20 Code §900.4. The County's Board of Supervisors is responsible for administering child welfare  
21 services in Los Angeles County. Cal. Const. Art. XI § 4, Los Angeles County Charter Articles I  
22 and III, Gov't Code §25303 and Welf. & Inst. Code §§ 202.5, 272, 281, 10800 and 16500 *et seq.*

23           14.     Respondent DCFS is the agency responsible for administering child welfare  
24 services in Los Angeles County, for locating placements for children in the County foster care  
25 system, for recruiting, training, and compensating residents of Los Angeles County to serve as  
26 foster parents, and for ensuring the safety and well-being of children under court supervision.  
27 Welf. & Inst. Code §§ 10800 and 16501 and Los Angeles County Code Chapter 2.38.

28     ///

1 15. Respondent Philip Browning is the current Director of DCFS. Under Welfare and  
2 Institutions Code § 10802 and Los Angeles County Code § 2.38.040, Respondent Browning is  
3 responsible for administering child welfare services in Los Angeles County, and for ensuring the  
4 safety and well-being of children under court supervision pursuant to Welfare & Institutions Code  
5 § 300, state regulations, and the DCFS policies and procedures manual. Respondent Browning is  
6 sued in his official capacity.

7 16. Petitioners are informed and believe, and on that basis allege, that Respondents  
8 acted as agents of the remaining Respondents, or ratified the conduct of the others, and that each  
9 is therefore jointly liable for the acts alleged herein.

10 17. Petitioners are unaware of the true names and legal capacities of the Respondents  
11 sued here as DOES 1 through 10 and, therefore, sue those Respondents by such fictitious names.  
12 Petitioners will amend their complaint to allege their true names and capacities when the same  
13 has been ascertained. Petitioners are informed and believe, and on this basis allege, that each  
14 DOE Respondent is in some way legally responsible for the acts, omissions, and damages alleged  
15 here to have been caused by each remaining Respondent.

16 **III.**

17 **FACTUAL BACKGROUND**

18 **A. Facts Common to All Parties**

19 **An Overview of the Foster Care System**

20 18. The foster care system provides services to children who cannot safely remain in  
21 their parents' or guardian's homes. Many children enter foster care at one of the worst moments  
22 in their lives – when a peace officer or social worker has reason to believe that a parent has  
23 “abused, neglected [or] abandoned” them within the meaning of Welfare & Institutions Code §§  
24 300, 305, 306; Cal. R. Ct., Rule 5.520. A child can also enter foster care when a parent or  
25 guardian consents to a period of voluntary supervision. Welf. & Inst. Code §§ 11400(o) and  
26 16507.4(b); DCFS Procedural Guide 0100-510.21, *Voluntary Placement*.

27 19. A county's department of child welfare services (“CWS”) must file a petition in  
28 juvenile dependency court within 48 hours of the child's removal from his or her home, not



1 including non-judicial days, to “declare” the child a dependent of the court, or release the child to  
2 his or her parents. Welf. & Inst. Code § 313. The juvenile court must hold an “initial hearing”  
3 (known as a “detention hearing”) no later than the next judicial day. Welf. & Inst. Code § 315;  
4 Cal. R. Ct., Rules 5.501-5.504, 5.668. At the detention hearing, the court must decide whether to  
5 release the child from custody, or detain the child in foster care. Welf. & Inst. Code § 319. If the  
6 court detains the child in foster care, then CWS must develop and implement a family  
7 reunification plan unless the juvenile court places the child on a “fast track to permanency” at a  
8 “disposition” hearing. Welf. & Inst. Code §§ 319(e), 361.5(b); DCFS Procedural Guide 0080-  
9 508.05, *Fast Track to Permanency (FTP) Provisions*.

10         20. Reunification services are time limited. Parents are generally entitled to a  
11 maximum of six or twelve months of reunification services, measured from the date the child  
12 entered foster care, depending on the age of the child at the time of detention. Welf. & Inst. Code  
13 §§ 361.5(A)(1)(B). The juvenile court has discretion to extend reunification services under  
14 certain circumstances. Welf. & Inst. Code §§ 361.5 (a)(3); 366.22(b). After a maximum period of  
15 24 months, the juvenile court must terminate reunification services and order a permanent plan  
16 hearing unless the parent has substantially resolved the problem(s) that prompted the court’s  
17 intervention. Welf. & Inst. Code §§ 361.5(a)(3); 361.5 (a)(1); 366.21(g)(1); 366.22 and 366.25(a).

18         21. When the court selects a permanent plan for a child, the options are to place the  
19 child for adoption, under legal guardianship, or in long-term foster care with a foster parent or  
20 relative “willing to provide, and capable of providing, a stable and permanent home for the child  
21 and [who] must have substantial psychological ties with the child.” Cal. R. Ct., Rule  
22 5.725(d)(7)(D). The court must terminate parental rights when the child is “adoptable” unless  
23 specified exceptional circumstances exist. Welf. & Inst. Code § 366.26(b).

24         22. DCFS has published “Procedural Guides” designed to ensure that children’s social  
25 workers (“CSWs”) comply with federal and state statutes and regulations governing foster care.  
26 DCFS employs the “concurrent planning” procedures set forth in the Procedural Guide to “move  
27 children through the child welfare system quickly to . . . a secure permanent home.” DCFS  
28 Procedural Guide 0080-507.20, *Concurrent Planning and the Concurrent Planning Assessment*,

1 p. 1. Planning a permanent placement for a child begins with the “initial removal from his or her  
2 parents.” DCFS Procedural Guide 0300-503.21, *Concurrent Planning & Termination of Parental*  
3 *Rights (TPR)-Related Activities*, p. 1. Concurrent planning procedures require DCFS to place all  
4 foster children with home-studied prospective adoptive families who can meet the child’s various  
5 needs, including the need for legal permanency, unless the child can be placed with relatives or  
6 nonrelative extended family members. *See* Health & Safety Code § 1521.6. The concurrent  
7 planning process helps ensure that if family reunification proves impossible, the child will be able  
8 to remain with the same caregivers permanently rather than moved to a new home to achieve  
9 legal permanency through adoption or guardianship. Concurrent planning is required by state  
10 child welfare regulations. California Department of Social Services Manual of Policies and  
11 Procedures Divisions 31-405.1 and 31-420.1.14 (“Social Worker Responsibilities for  
12 Placement”). These state regulations require social workers to select a foster placement that will  
13 provide the child with a permanency alternative should family reunification fail.

14 23. Most non-relative foster placements are “concurrent homes,” sometimes called  
15 “foster to adopt” homes, “resource family homes” or “fost-adopt homes” wherein the foster  
16 parents have agreed to raise the child permanently should reunification not occur. *See* DCFS  
17 Procedural Guide 0200-509.30, *Fost-Adopt and Adoptive Placements, passim*. On the other hand,  
18 some non-relative foster placements, such as respite care homes and group home care, are  
19 intended for children who either do not need permanently planning services or are deemed to  
20 have needs that cannot best be met in a family home setting.

21 24. By its very nature, concurrent planning, also known as “early adoptive planning,”  
22 encourages foster parents and foster children to develop attachments long before the juvenile  
23 court orders a permanent plan hearing. DCFS Procedural Guide 0080-507.20(B)(1)(c),  
24 *Concurrent Planning and the Concurrent Planning Assessment (CPA)* (requiring Children’s  
25 Social Workers to “ask the current caregiver . . . whether s/he would like to be considered as a  
26 permanency option for the child shortly after placement”); *id.* at 0080-507.20(B)(7)(a) (requiring  
27 CSWs to “obtain a statement from the child regarding permanency planning” shortly after  
28 detention.) A child who has been removed from his natural parent’s custody often forms a

1 parent-child relationship with the substitute caregiver.

2 25. DCFS Procedural Guide 0200-509.30, *Pre-Placement Steps: Fost-Adopt and*  
3 *Adoptive Placements*, and 0200-501.25, *Preparing Children for Adoption*, require prospective  
4 adoptive parents to help prepare foster children for adoption. The goals of preparation are to:

- 5 a. Help the child understand how s/he got where s/he is.
- 6 b. Understand the child's beliefs about his or her current situation and correct  
7 any misconceptions.
- 8 c. Help the child mourn the loss of parents and previous caregivers, deal with  
9 fantasies, resolve past attachments, and accept that s/he cannot live with  
10 those previous caregivers.
- 11 d. Help the child deal with feelings of anger, loss, and grief and grieving.
- 12 e. Help important attachment figure(s) give the child permission to love  
13 someone else.
- 14 f. Help the child learn that she can love more than one set of parents. In  
15 learning to love the [prospective] adoptive parent, s/he doesn't have to  
16 reject the birth parents.
- 17 g. Give the child a sense of where s/he is going.

18 Procedural Guide 0200-501.25, *supra*, at p.2

### 19 **Number of Children in Foster Care**

20 26. According to DCFS' website, as of June 30, 2014, more than 20,000 children were  
21 under DCFS' supervision living in out-of-home placements, with 1,384 children in DCFS foster  
22 family homes, 9,167 children living with relatives/non-relative extended family, and another  
23 5,081 children in foster family agency ("FFA") certified homes. There are 46 FFAs currently  
24 under contract with the County of Los Angeles to provide foster care.

25 27. During June of 2014, more than 13,000 children were referred to DCFS for  
26 investigation based on allegations of sexual, physical or emotional abuse, severe or general  
27 neglect, exploitation, caretaker absence or incapacity or at risk regarding sibling abuse. The  
28 children served by DCFS are disproportionately minorities. 60.1% are Hispanic and 25.6% are

1 African-American.

2 28. Many foster parents raise foster children alongside their own biological children.  
3 Community care licensing regulations ordinarily limit the homes of relative/nonrelative extended  
4 family members, certified foster family homes, and licensed foster family homes to a maximum  
5 of six children, including biological, adoptive and guardianship children as well as foster  
6 children. 22 CCR §89228; DCFS Procedural Guide 0100-510.10.

### 7 **Years Spent by Children in Foster Care and the Consequences**

8 29. Many children spend their formative years in foster care. For these children, foster  
9 care is a home, not just a temporary refuge. In California, over two thirds (69.5%) of foster  
10 children who had entered care when they were older than 12 “aged out” at age 18 without finding  
11 a permanent family. Almost a third (30.5%) of the children who had entered foster care before  
12 their twelfth birthday aged out of foster care without finding a permanent home. Child Welfare  
13 Outcomes Report 2012, U.S. State Dept. of Health and Human Services, California Outcomes  
14 Data. In Los Angeles County, more than half of the children who “age out” of foster care are  
15 black or Hispanic. Needell, B, et al., *CCWIP Report (2014)* Retrieved 7/11/14 from University of  
16 California at Berkeley, California Child Welfare Indicators Project Website. URL:  
17 [http://cssr.berkeley.edu/ucb\\_childwelfare/C3m3.aspx](http://cssr.berkeley.edu/ucb_childwelfare/C3m3.aspx).

18 30. A child who suffers the loss of a parent suffers an increased risk of emotional and  
19 social problems in adulthood. This risk further increases if the child develops bonds with a new  
20 potential family and then is forced to separate from these new parental figures. Researchers have  
21 concluded that “[d]isruptions to early relationships resulting in insecure attachment experiences  
22 and representations make it difficult for individuals to relate well to other people for the rest of  
23 their lives.” See, e.g., Marcus T. Boccaccini & Eleanor Willemson, *Contested Adoption and the*  
24 *Liberty Interest of the Child*, 10 St. Thomas L. Rev. 211, 219 (1997).

25 31. Many children – disproportionately minority children – spend their entire  
26 childhoods in foster care only to “age out” of the system at ages eighteen or twenty-one, without  
27 ever being adopted or reunified with their families of origin. Sylvia Junn and Jennifer Rodriguez,  
28 *COMMENT: Out on Their Own. California’s Foster Youth and the Inequality of the Independent*

1 *Living Program*, 6 UC Davis. J.Juv.L and Policy 189 (2002). These children suffer  
2 developmental and emotional damage from a loss of trust in adults and from a lack of stability  
3 and continuity of attachment to others. Foster youths “receive little to no formal preparation [for  
4 adulthood] from the state.” Melinda Atkinson, *Aging Out of Foster Care: Towards a Universal*  
5 *Safety Net for Former Foster Care Youth*, 43 Harv. C.R. – C.L. L. Rev. 182, 191 (2008). Children  
6 who “age out” of foster care are therefore one of the highest-risk groups in America for just about  
7 every adverse social phenomenon, from high mortality to high unemployment. *Id.*

### 8 **Notices to Foster Parents Regarding Hearings in Juvenile Dependency Court**

9 32. Throughout the time that children remain in the foster care system, caregivers are  
10 supposed to be given notices and opportunities to be heard so that the juvenile courts, social  
11 workers and lawyers will have the benefit of the foster parents’ perceptions about the children in  
12 their care. Welf. & Inst. Code § 16010.4(b).

13 33. A 2002 collaborative project of the Center for Families, Children & the Court,  
14 Administrative Office of the Courts and the National Center for Youth Law surveyed judges’  
15 attitudes toward foster parents and reported that judges “overwhelmingly” expressed a desire to  
16 hear from children’s caregivers before judicial decisions are made. R. Deihl, *et al.*, *Caregivers*  
17 *and The Courts: Improving Court Decisions Affecting Children in Foster Care* (Jan. 2002) at 164.  
18 The report concludes that (1) foster parents’ participation in court hearings “can positively affect  
19 outcomes for children in foster care,” (2) many foster parents “want to and will attend court  
20 proceedings if given training and encouragement to do so,” (3) juvenile court judges uniformly  
21 want to receive information from children's caregivers, “particularly any information that can  
22 humanize the children and help the court better assess their needs and the quality of their day-to-  
23 day lives,” but (4) “social workers interviewed generally did not want caregivers involved in case  
24 planning, and were not enthusiastic about having them attend court. *Id.*

25 34. Welfare and Institutions Code § 16010.4(f) sets forth a general notice requirement  
26 that “Caregivers should have knowledge,” among other things, of the following:

27 “(1) Their right to receive notice of all review and permanency hearings  
28 concerning the child during the placement.

1 (2) Their right to attend those hearings or submit information they deem  
2 relevant to the court in writing.

3 (3) The “Caregiver Information Form” (Judicial Council Form JV-290), which  
4 allows the *caregiver* to provide information directly to the court.”

5 35. Welfare & Institutions Code §361.5(f) governs disposition hearings when DCFS  
6 recommends that the court place a child on a “fast track to permanency,” *i.e.* refuse to provide  
7 reunification services, as described at ¶ 20 above. Welfare & Institutions Code § 291(a)(8) and  
8 (c)(1) govern notice of such hearings.

9 36. Under DCFS Procedural Guide Sections 0300-306.05, *Notice of Hearing in*  
10 *Juvenile Court*, and 0080-508.05, *Fast Track to Permanency*, DCFS “shall provide notice to the  
11 current caregiver” at least five days before such disposition hearings, unless the hearing is set in  
12 less than five days and then at least 24 hours prior to the hearing.

13 37. Rule 5.534(n)(3) of the California Rules of Court mandates that social workers  
14 “must provide” certain documents to a child’s “current caregiver” at least ten days prior to each  
15 regular review hearing and any dispositional hearing that serves as a permanency hearing so that  
16 the caregiver may provide written information to the court for the hearing if the caregiver wishes  
17 to do so. Specifically, Rule 5.534(n)(3) requires social workers to give caregivers a “summary of  
18 the recommendations for disposition,” “any recommendations for change in custody or status,” a  
19 blank copy of the Caregiver Information Form (Judicial Council form JV-290) and a copy of the  
20 “Instruction Sheet for Caregiver Information Form” (Judicial Council form JV 290 INFO).

21 38. Welfare and Institutions Code §§ 366.21, 366.22 and 366.25 govern periodic  
22 review hearings to review the status of dependent children. Advance written notice of these  
23 periodic review hearings must be given in accordance with Welfare & Institutions Code § 293.  
24 When the court has removed a child from the physical custody of his or her parent or legal  
25 guardian, “[t]he social worker . . . shall give notice of the review hearings . . . to the current  
26 caregiver of the child, including the foster parents. . . or the foster family agency having custody  
27 of the child” not earlier than 30 days, nor later than 15 days, before the hearing. Welf. & Inst.  
28 Code § 293(a)(6) and (c). “In a case in which a foster family agency is notified of the hearing

1 pursuant to this section, and the child resides in a foster home certified by the foster family  
2 agency, the foster family agency shall provide timely notice of the hearing to the child's  
3 caregivers." *Id.* at § 293(a)(6).

4 39. Notices of review hearings are required to contain certain information, at a  
5 minimum. "The notice shall contain a statement regarding the nature of the hearing to be held and  
6 any change in the custody or status of the child being recommended by the supervising agency."  
7 Welf. & Inst. Code § 366.21(d). In addition: "the social worker shall, at least 10 calendar days  
8 prior to the [review] hearing, provide a summary of his or her recommendation for disposition to  
9 any foster parents . . . or foster family agency having the physical custody of the child." Welf. &  
10 Inst. Code § 366.21(c). "The social worker shall [also] include a copy of the Judicial Council  
11 Caregiver Information Form (J-290) with the summary of recommendations to the child's foster  
12 parents . . . along with information on how to file the form with the court." *Id.* Finally, Welfare  
13 and Institutions Code § 293(f) states: "Notice to the current caregiver of the child, including a  
14 foster parent, . . . shall indicate that the person notified may attend all hearings or may submit any  
15 information he or she deems relevant to the court in writing."

16 40. Welfare and Institutions Code § 366.26 governs selection and implementation  
17 hearings, *i.e.*, hearings to decide whether to terminate parental rights, order that the children be  
18 placed for adoption or in long term foster care or establish legal guardianship of the children.  
19 Welfare and Institutions Code § 294(a)(8) mandates that the "social worker . . . shall give notice  
20 of a selection and implementation hearing held pursuant to Section 366.26 [to] . . . the current  
21 caregiver of the child, including foster parents . . . ." Any foster parents who received these  
22 notices "may attend all hearings and may submit any information he or she deems relevant to the  
23 court in writing." Welf. & Inst. Code § 294(a)(8). "Service of the notice shall be completed at  
24 least 45 days before the hearing date." Welf. & Inst. Code § 294(c)(1).

25 41. Rule 5.534 of the California Rules of Court states that the current caregiver of the  
26 child "has the right to be heard" in "each" statutory review hearing, permanency hearing and  
27 section 366.26 hearing, "including the right to submit information about the child before the  
28 hearing." Cal. R. Ct., Rule 5.534(n)(1) and (2). "Written information about the child may be

1 submitted to the court using the Caregiver Information Form (form JV-290) or in the form of a  
2 letter to the court.” Cal. R. Ct., Rule 5.534(n)(2).

3 42. Rule 5.708(b) of the California Rules of Court mandates that DCFS must serve  
4 written notice of review hearings on Judicial Council Form JV-280 in the manner provided in  
5 Welfare and Institutions Code § 293, to all persons or entities entitled to notice under § 293. Item  
6 5(a) of form JV-280 advises “the present custodians of the children” that they “may be present at  
7 the hearing” and may “submit relevant written material to the court.”

8 43. Welfare and Institutions Code § 366.23 governs cases where “a noncustodial  
9 parent is seeking placement or custody of a child.” In those cases, the “social worker shall inform  
10 the caretaker that he or she has the right to provide the court with input regarding the placement  
11 of the child” and “shall provide the ‘Caregiver Information Form’ to the caregiver to complete  
12 and request that the caregiver provide any particular information the caregiver might have  
13 regarding the noncustodial parent now seeking custody.” Welf. & Inst. Code § 366.23. “[T]he  
14 social worker shall ensure that, if the foster parent completes the form, the completed form is  
15 returned to the court for review and consideration before the child is placed with the noncustodial  
16 parent.” *Id.*

17 44. When a juvenile court orders a permanent plan of adoption or legal guardianship  
18 for a dependent child, the status of the child shall be reviewed every six months to ensure that the  
19 adoption or legal guardianship is completed as expeditiously as possible. Welf. & Inst. Code §  
20 366.3(a). Welfare and Institutions Code § 295(a)(6) specifies that the “social worker . . . shall  
21 give notice of review hearings held pursuant to Section 366.3 [to] . . . [t]he current caregiver of  
22 the child, including foster parents,” and that the “person notified may attend all hearings and may  
23 submit any information he or she deems relevant to the court in writing.” Notices of these review  
24 hearings shall be served no earlier than 30 days, nor later than 15 days, before the hearing. Welf.  
25 & Inst. Code § 295(c).

### 26 **Grievance Procedures**

27 45. Under Welfare and Institutions Code, §§ 10600 and 16005, California’s  
28 Department of Social Services (“CDSS”) is the state agency responsible for every phase of the



1 administration of child welfare services.

2 46. Under DSS's Manual of Policies and Procedures ("MPP") § 10-005.12: "The  
3 county welfare departments and other primary service providers are agents" of DSS for purposes  
4 of delivering child welfare services. Under MPP § 10-005.14: "All service programs . . . shall be  
5 subject to the[] regulations" contained in CDSS' MPP.

6 47. CDSS' MPP mandates a grievance procedure to allow for intra-agency review  
7 when a decision is made to change a child's placement. MPP § 31 440.1 states: "The foster  
8 parent(s) shall be given at least seven calendar days' advance written notice of intent to remove a  
9 child, and of the right to request a grievance review."

10 48. MPP § 31-020 explains that the purpose of the grievance procedure is to prevent  
11 unnecessary disruption of foster families, and reduce the risk of trauma associated with  
12 unnecessary placement changes. It requires:

13 \* \* \*

14 .3 Review request procedures shall include the following:

15 .31 The county shall explain the right to a review, and shall provide a copy of  
16 the grievance procedure regulations to the following parties:

17 .311 A legal parent/guardian at the time the child is placed.

18 .312 A foster parent at the time of licensing.

19 .313 Any complainant at the time a complaint is filed.

20 .32 A review request shall be filed in the form of a written statement signed by  
21 the complainant.

22 \* \* \*

23 .35 The county shall assist in preparation of the complaint if assistance is  
24 requested or necessary.

25 .4 The review shall be held within ten working days from the date the written  
26 complaint is received by the agency.

27 .41 Notice of the date, time and place for the review shall be received by all  
28 parties not less than five calendar days prior to the hearing

1 \* \* \*

2 .7 Unless the child is in immediate danger, he/she shall remain with the foster  
3 parent(s), pending [resolution of the grievance].

4 49. DCFS Procedural Guide 0100-502.52, *Seven Day Prior Notice to Foster Parents*  
5 *of Intent to Remove Child and Grievance Review Regarding Placement/Removal of a Child From*  
6 *a Foster Home*, instructs CSWs (the children’s social workers) to comply with MPP §§ 31-020  
7 and 31-040 by providing a 7-day notice to foster parents before removing a child from their  
8 homes, and to notify foster parents of their grievance rights:

9 **A. WHEN: AT THE INITIAL PLACEMENT OF A CHILD**

10 CSW Responsibilities

11 1. At the time of the initial placement, discuss the Grievance Review process  
12 with the child, the parent(s) or legal guardian(s), and the relative or non relative  
13 extended family member, that you are placing with, and provide the caregiver with  
14 . . . [forms] DCFS 4161 and DCFS 4161 1 [i.e., the forms necessary to initiate the  
15 grievance process].

16 **B. WHEN: NOTIFICATION REQUIREMENTS OF INTENT TO**  
17 **REMOVE A CHILD**

18 CSW Responsibilities

19 1. Unless the child's situation warrants removal without prior notification as  
20 stated in the Grievance Process . . . , notify the caregiver in writing, of the planned  
21 removal, at least seven calendar days prior to the expected removal/replacement  
22 date. . . .

23 50. MPP § 31-440.2.21 through 25 and DCFS Procedural Guide 0100-502.52, *Seven*  
24 *Day Prior Notice to Foster Parents of Intent to Remove Child and Grievance Review Regarding*  
25 *Placement/Removal of a Child from a Foster Home*, exempt removals based on court orders or  
26 exigent circumstances from the grievance process.

27 51. Respondents implemented revised grievance and seven-day notice procedures on  
28 March 26, 2014, and highlighted those revisions in a “Weekly Policy Alert” the following day.

1 The Alert reminded CSWs to comply with DCFS Procedural Guide 0100-502.52, but has had  
2 little or no practical effect on Respondents' actual practice.

3 **Failure to Comply with Notice Requirements**

4 52. Petitioners are informed and believe and, based upon such information and belief,  
5 allege that at all times material herein, Respondents have failed to send the notices required by  
6 Welfare and Institutions Code §§ 291(a)(8), 293(a)(6), 294(a)(8) and 295(a)(6) 366.21, 366.22  
7 and MPP § 31-440.1 to foster parents and foster family agencies in Los Angeles County.

8 53. DCFS does not require foster family agencies to provide timely copies of such  
9 notices to the certified foster parents so that they may be apprised of their right to attend, or, if the  
10 DCFS does require that foster family agencies provide copies of notices to foster parents, the  
11 DCFS does little or nothing to enforce the requirement and to monitor whether its contracting  
12 foster family agencies are complying with the requirement. The pattern and practice has resulted  
13 in lack of written notice to FFA-certified foster parents (who provide care for 80% of those foster  
14 children who are not living with relatives).

15 54. Even when Respondents notify foster parents of hearings involving children in  
16 their care, most caregivers learn little or nothing about the nature of the hearing because  
17 Respondents regularly fail to explain the nature of the hearing to be held, summarize DCFS'  
18 recommendations for disposition, disclose any change in the custody or status of the child being  
19 recommended, explain the factual or legal basis for their unstated recommendations, or mail  
20 copies of court reports with attachments to caregivers, regardless of whether the court has  
21 recognized the foster parents as parties under Rule 5.534(e) of the California Rules of Court.

22 **Failure to Comply with Grievance Requirements**

23 55. In violation of DSS' grievance requirements and its own Procedural Guide, it is  
24 Respondents' policy and practice to:

- 25 a. Refuse to notify caregivers in writing of the planned removal of children in  
26 their care without court order or evidence of exigent circumstances at least  
27 seven calendar days prior to the expected removal/replacement date;
- 28 b. Refuse to notify caregivers of their right to request a Grievance Review

1 hearing before a child is removed from their care without court order or  
2 evidence of exigent circumstances;

- 3 c. Evade grievance requirements by misinforming foster parents that the  
4 juvenile court has ordered them to remove and replace their foster children  
5 when in fact the court has not done so;
- 6 d. Refuse to provide caregivers with DCFS Forms 4161 and 4161 1, which  
7 contain grievance procedure information, either at the time of the initial  
8 placement, or prior to removal of a child in their care;
- 9 e. Refuse to accept requests for grievance hearing that are not on Form 4161;
- 10 f. Refuse to provide timely grievance reviews upon receipt of a grievance  
11 submitted by foster parents;
- 12 g. Refuse to decide grievances within the deadlines required by state  
13 regulations; and
- 14 h. Remove children from foster parents with whom they have developed a  
15 parent-child relationship in order to retaliate against the foster parents for  
16 engaging in lawful behavior.

17 **Critical Decisions about Foster Children Are Made Without**  
18 **Required Input from Foster Parents**

19 56. By their above-mentioned actions, Respondents discourage and prevent foster  
20 parents from participating in juvenile court proceedings in which they are entitled to participate  
21 under state law. As a consequence, the juvenile courts often make decisions about foster children  
22 without the benefit of relevant information from foster parents regarding the children's specific  
23 physical, psychological, educational, medical, and emotional needs.

24 57. Providing foster parents with notice and an opportunity to be heard is particularly  
25 important because there are too few social workers in the County, and children's attorneys in Los  
26 Angeles County have overwhelming case loads. A 2013 arbitration decision found that social  
27 workers in Los Angeles were responsible for as many as 100 foster children each, whereas the  
28 contract limits caseloads to a maximum of 31 children per social worker. *See Los Angeles County*

1 *Employee Association Local 721 v. County of Los Angeles, Department of Children and Family*  
2 *Services*, Arb. No. 154-11 (2013). Staff attorneys for the non-profit agency that serves as  
3 appointed counsel for children subject to dependent proceedings carry as many as 395 cases at a  
4 time. More recently, in April of 2014, Los Angeles County’s Blue Ribbon Commission on Child  
5 Protection issued a report entitled *The Road to Safety for Our Children*, which concluded that  
6 “Social workers testified that they were unable to perform essential functions because of  
7 overwhelming caseloads and insufficient support, supervision, and training. Similarly, judges  
8 confirmed that the judicial system operates under the burden of too many cases and, at times,  
9 incomplete or inaccurate information.”

10 58. The recruitment and retention of foster and foster-adoption parents are systemic  
11 problems. According to two studies by the Office of Inspector General, the recruitment of foster  
12 parents has become a critical problem in most states, including California, and the low rates of  
13 retention of foster parents is due in part to foster parents’ beliefs that they are “unsupported and  
14 unappreciated” by child welfare agencies who do not provide them with “any formal procedures  
15 to allow them to voice their concerns.” U.S. Dept. of Health and Human Services, Office of the  
16 Inspector General, Report OEI-07-00-00600 (2002) at i-ii, 5-8, Report OEI-07-00-00601 (2002)  
17 at 5-6. Last year “Los Angeles County’s shortage of foster care beds reached a crisis point, with  
18 State officials threatening to impose fines because too many children are languishing in  
19 sometimes chaotic holding rooms during traumatic separations from their families.” Garrett  
20 Therolf, *Los Angeles County’s Foster Care Shortage Reaches Crisis Level*, Los Angeles Times,  
21 August 23, 2013.

22 **B. Facts Relating to Petitioner Heather Whelan**

23 59. Petitioner Heather Whelan is a fifth-grade schoolteacher who lives in Whittier. She  
24 is 31-years old, single and has taught elementary school for seven years.

25 60. Ms. Whelan has been a certified foster parent with Serenity Infant Care Homes  
26 FFA (“Serenity”) in Covina since 2010. Serenity has placed 18 foster children with her.  
27 Approximately four of those children lived with Ms. Whelan for short periods known as “respite  
28 care.” The others stayed in her care for months or years, and the majority of them were reunified

1 with birth parents or moved to be placed with siblings or relatives. The most recent child to be  
2 placed with Ms. Whelan arrived in August 2014. Ms. Whelan currently provides care for two  
3 foster children under age six, as well as one child she adopted after raising her in foster care.

4 61. Ms. Whelan never planned to adopt a child. She originally became interested in  
5 helping abused and abandoned children while travelling abroad and volunteering to help orphans  
6 around the world. She continued to pursue this interest upon settling in Whittier and embarking  
7 on her teaching career.

8 62. Ms. Whelan leads her church's "foster care awareness" group. She is also a leader  
9 of a choir made up of foster families and children who perform at events throughout Southern  
10 California to raise awareness about foster care.

11 63. Most of Ms. Whelan's foster children were babies and toddlers who were  
12 successfully reunified with their parents. Ms. Whelan prides herself on building rapport with the  
13 biological parents and supporting their reunification efforts. Some mothers continue to stay in  
14 touch with Ms. Whelan long after their children are returned from foster care, and many have  
15 thanked her for her services.

16 64. One child, for instance, lived in Ms. Whelan's home for 14 months until October  
17 2014 when she was reunified with a parent. Ms. Whelan does not recall ever receiving a notice of  
18 court hearing in this child's case. Had she received hearing notices, she would have made every  
19 effort to attend the child's hearings.

20 65. Ms. Whelan has cared over the years for several children who had siblings living  
21 in other foster homes. To the best of her knowledge, Ms. Whelan has never received written  
22 notice of a sibling's court hearing. Ms. Whelan attends any court hearings she learns about, but  
23 she remembers receiving only two written hearing notices concerning any of the children she has  
24 cared for.

25 66. Ms. Whelan does not recall being given a blank JV-290 "Caregiver Information  
26 Form" by a social worker. She does not recall being informed by a social worker about how to fill  
27 out the JV-290 form or receiving assistance from DCFS in filing out the form. Ms. Whelan  
28 instead learned about the existence of the JV-290 form from Advokids and from other foster

1 parents. She has filled out JV-290 forms and given the completed form to social workers. On  
2 information and belief, her completed JV-290 forms have not been attached to social worker  
3 reports or submitted to juvenile courts by DCFS social workers, though Ms. Whelan is aware  
4 from her study of the Advokids' website that the law requires social workers to submit them with  
5 reports filed for the court's consideration in a foster child's case.

6 67. On March 26, 2014, DCFS suddenly removed a six-month old child from Ms.  
7 Whelan's care. Prior to the child's removal, no Seven-Day notice was given, and no grievance  
8 form or grievance procedures were given by DCFS to Ms. Whelan. The child's appointed counsel  
9 did not receive the legally required advance notice of the move, nor was counsel informed until  
10 after the move of where the child had been placed.

11 68. On April 7, 2014, Ms. Whelan submitted a written grievance to DCFS (using her  
12 own home-made version of the grievance form since one had not been provided by the CSW and  
13 DCFS refuses to make the form available to the public). Ms. Whelan's grievance sought review  
14 of the child's removal and asserted that the move was retaliatory and that it violated written  
15 DCFS procedures and was not in the child's best interest, and that the move not been planned or  
16 carried out in keeping with DCFS procedures and was contrary to the best interest of the sibling  
17 who remained in Ms. Whelan's care. A grievance review was initially scheduled by County  
18 Counsel but DCFS later canceled the grievance review on the basis of a court order that County  
19 Counsel obtained by an ex parte request.

20 69. Ms. Whelan currently receives written notices of court hearings because after  
21 retaining an attorney she obtained de facto status in the juvenile court and DCFS then began  
22 serving notices of hearings on her counsel.

23 **C. Facts Relating to Petitioner Patrick J. Guske**

24 70. Petitioner Patrick J. Guske is an aeronautical engineer who works on an orbital  
25 space mission project at Jet Propulsion Laboratory in Pasadena, California. He and his wife, Julie  
26 Guske, are the current foster parents of one Los Angeles County foster child, the adoptive parents  
27 of two former Los Angeles foster children, and have fostered and adopted neglected and abused  
28 children in Los Angeles County since 2012. They founded and operated out of their garage a free

1 “store” where foster parents can “shop” for clothing and supplies they need to provide for foster  
2 children when first placed in their homes.

3 71. Between 2012 and 2013, Mr. Guske and his wife were foster parents of twin  
4 babies (“the twins”). The twins were placed with them by Olive Crest Foster Family Agency  
5 under contract with DCFS and under the supervision of DCFS. The Guskes do not recall being  
6 given a blank grievance form or the grievance procedures at the time of the twins’ placement.

7 72. While Mr. Guske and his wife were the twins’ foster parents, the Guskes recall  
8 receiving only one written court hearing notice. Mr. Guske repeatedly inquired about court  
9 hearing dates and was repeatedly told by the twins’ DCFS social worker that foster parents are  
10 “not allowed” to attend their foster children’s court hearings.

11 73. DCFS made several verbal threats to remove the twins but did not give Mr. Guske  
12 a written Seven Day Notice of Intent to Remove Foster Child or inform him of the rights to file a  
13 grievance to object to the planned removal.

14 74. Mr. Guske filed multiple JV-290 Caregiver Information Forms without being  
15 informed by DCFS or its agents of the existence of the JV-290 form, being given a blank JV-290  
16 form or receiving instructions for completing it. Mr. Guske learned of his right to file a JV-290  
17 form from Advokids and obtained instructions for filling the forms out from Advokids, not social  
18 workers.

19 75. DCFS employees told Mr. Guske that they had never heard of the JV-290 forms.  
20 Having learned from Advokids of the value of the information on the JV-290 form to the judicial  
21 decision-maker, Mr. Guske persisted in trying to file his own JV-290 forms without help from  
22 DCFS.

23 76. The Guskes adopted the twins in 2013. The judge who made orders freeing the  
24 twins for adoption thanked the Guskes for the helpful information they provided to the court.

25 **D. Facts Relating to Petitioner Carrie Chung**

26 77. Petitioner Carrie Chung is a Licensed Clinical Social Worker with an office in  
27 Covina, California. She provided foster care to four children under DCFS’ supervision between  
28 2008 and 2012, and adopted two of them. Based upon her experiences as a foster parent and as a



1 clinician working with foster and adoptive families, Ms. Chung became convinced that foster  
2 parents should provide information to the courts about placement and parenting decisions. She  
3 became even more convinced that caregivers can supply valuable information to the courts when  
4 one of her foster children was moved from her home, placed in a new foster home, and was later  
5 murdered after DCFS ignored the objections of the child's then foster parents about the placement  
6 decision.

7 78. Ms. Chung previously worked as an adoption social worker for Serenity Infant  
8 Care Homes in Covina, California. She also served as a clinical supervisor and later the clinical  
9 director for a community mental health agency serving children and families in the San Gabriel  
10 Valley and established the Adoption Unit at Serenity.

11 79. During the period that Ms. Chung served as foster mother, she does not recall ever  
12 being given a blank JV-290 Caregiver Information form from a social worker and instructions for  
13 filling such forms out, nor does she recall receiving written notices for a single court hearing for  
14 three of her four foster children. This Petitioner recalls receiving written hearing notices for the  
15 fourth child, who will be identified by the fictitious pseudonym of "R," but only after the juvenile  
16 court designated her as R's de facto parent. Ms. Chung repeatedly asked R's DCFS social worker  
17 why no court hearing notices were being provided for a period of time. Ms. Chung cited to the  
18 social worker the written policies and laws requiring provision of hearing notices. The child's  
19 DCFS social worker replied that she was unaware that her duties included the provision of  
20 hearing notices.

21 80. DCFS threatened to remove R several times from Ms. Chung's care but she does  
22 not recall ever receiving the required written Seven Day Notice of Intent to Remove Foster Child.

23 81. Ms. Chung has brought to the attention of DCFS her concerns about the agency's  
24 pattern and practice of not giving court hearing notices, not assisting foster parents with the filing  
25 of JV-290 forms, and not providing written Seven Day Notices and grievance procedures when a  
26 removal of a foster child is threatened. The response from the social worker was that employees  
27 of DCFS do not receive all of the directives promulgated to staff nor do they have the time to  
28 read and follow those directives.

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**IV.**

**CLAIMS FOR RELIEF**

**FIRST CAUSE OF ACTION**

**Writ of Mandate Pursuant to C.C.P. § 1085 for Denial of Foster Parents' Rights under  
California Statutes, Regulations and Court Rules to  
Participate in Judicial and Administrative Proceedings  
[All Petitioners Against All Respondents]**

82. Petitioners incorporate paragraphs 1 through 81 of this Petition as if fully set forth herein.

83. Respondents have a clear and present duty to administer child welfare services in conformity with all governing laws and regulations.

84. Respondents' above-mentioned actions violate their legal duties under the following: Welfare & Institutions Code §§ 291(a)(8), 293(a)(6), 294(a)(8) and (e), 295(a)(6), 366.21(c), 366.23, Rules 5.534(n) and 5.708 of the California Rules of Court, DSS MPP §§ 31-4020 and 31-31-440, and DCFS Procedural Guide 0100-502.52.

85. Petitioners lack a plain, speedy and adequate remedy at law except by way of peremptory writ of mandate pursuant to Code of Civil Procedure § 1085.

86. Respondents' acts and omissions constitute a policy, pattern, practice, custom, final policymaking act, and/or ratification of a subordinate's action that deprived Petitioners and others of particular statutory rights.

87. Respondents have failed in their duties to properly hire, train, instruct, monitor, supervise, evaluate and investigate their employees who are responsible for complying with these statutes, which has directly resulted in the deprivation of the Petitioners' and others' statutory rights.

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1 **SECOND CAUSE OF ACTION**

2 **Taxpayer Claim for Declaratory and Injunctive Relief**

3 **[Petitioners Whelan, Guske and Chung Against All Respondents]**

4 88. Petitioners incorporate paragraph 1 through 81 of this Petition as if fully set forth  
5 herein.

6 89. Respondents' expenditure of county and state taxpayers' funds for the  
7 implementation of the above-mentioned pattern, practice and/or policy of not providing foster  
8 parents from getting notice and an opportunity to be heard, is unlawful. Petitioners Whelan,  
9 Guske, and Chung, as County and state taxpayers, have an interest in enjoining the continued  
10 unlawful expenditure of tax funds. Pursuant to Code of Civil Procedure § 526a and this Court's  
11 equitable power, Petitioners seek declaratory and equitable relief to prevent continued harm and  
12 to protect Petitioners and the public from Respondents' unlawful policies and practices, as alleged  
13 herein.

14 90. There is an actual controversy between Petitioners and Respondents concerning  
15 their respective rights and duties in that Petitioners contend that the policies and practices of  
16 Respondents, as described herein, are in violation of state law, and Respondents contend in all  
17 respects to the contrary. Petitioners seek a judicial declaration of the rights and duties of the  
18 respective parties with respect to the instant matter.

19 91. Unless and until Respondents' unlawful policies and practices as alleged herein are  
20 enjoined and restrained by order of this court, they will continue to cause great and irreparable  
21 injury to Respondents and other taxpayers, who have no adequate remedy at law. Further, relief  
22 by damages alone for Respondents' continuing unlawful practices and conduct would require a  
23 multiplicity of suits.

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V.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioners and Plaintiffs respectfully request that the Court:

(a) Enter a Peremptory Writ of Mandate commanding Respondents to provide foster parents with notice and the opportunity to be heard and submit evidence at all proceedings involving a child in their care, in accordance with all the particular statutes, regulations, DCFS Procedure Manuals and laws cited in the First Cause of Action.

(b) Enter a declaratory judgment that the policies and practices complained of herein are unlawful and violative of state laws and DCFS' Procedure Manuals.

(c) Permanently and preliminarily enjoin Respondents and their respective directors, officers, agents, and employees from engaging in any of the unlawful conduct specified herein, and from continuing any and all other practices shown to be in violation of applicable law. including but not limited to, failing to provide caregivers with notice to and an opportunity to be heard in any proceeding to be held with respect to the child in their care and retaliating against those caregivers who take steps to participate in such hearings.

(d) Award Petitioners their expenses, costs, fees, and other disbursements associated with the filing and maintenance of this action, including reasonable attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and any other applicable provision of law; and

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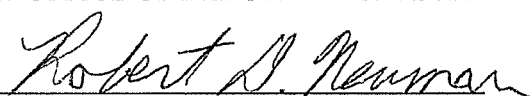
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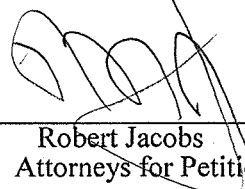
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(e) Grant such other equitable and further relief as the Court deems just and proper.  
Petitioners hereby demand a jury trial on all issues so triable.

Dated: November 24 2014

Respectfully submitted,  
HADSELL STORMER & RENICK LLP  
ROBERT D. NEWMAN, ATTORNEY AT LAW  
ROBERT JACOBS, ATTORNEY AT LAW  
LAW OFFICE OF DEBORAH DENTLER

By:   
Robert D. Newman

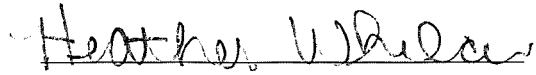
  
By: \_\_\_\_\_  
Robert Jacobs  
Attorneys for Petitioners

# Verifications

VERIFICATION

I, Heather Whelan, am a petitioner in the action titled *Advokids et al. v. County of Los Angeles Department of Children and Family Services et al.* I declare under penalty of perjury that the facts that pertain to me in the foregoing document titled "First Amended Complaint" are true and correct to the best of my information and belief.

Executed in Monterey Park, California, on this 22nd day of August, 2014.

A handwritten signature in black ink that reads "Heather Whelan". The signature is written in a cursive style and is positioned above the printed name.

Heather Whelan

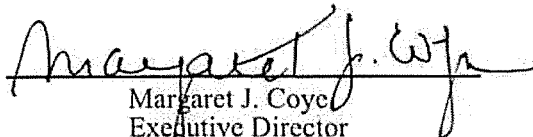
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VERIFICATION

I, Margaret J. Coyne, declare and say that I am the Executive Director of Advokids, a petitioner in the action titled *Advokids, et al. v. County of Los Angeles, et al.*

I have read the foregoing document titled "First Amended Petition" and know the contents thereof. I declare under penalty of perjury under the laws of the State of California that the foregoing facts are true and correct except as to the allegations relating to the three individual petitioners.

Executed in San Francisco California on this 21<sup>st</sup> day of November, 2014.

  
Margaret J. Coyne  
Executive Director  
Advokids



VERIFICATION

I, Carrie Chung, am a petitioner in the action titled *Advokids et al. v. County of Los Angeles Department of Children and Family Services et al.* I declare under penalty of perjury that the facts that pertain to me in the foregoing document titled "First Amended Complaint" are true and correct to the best of my information and belief.

Executed in Covina, California on this 18 day of November, 2014.

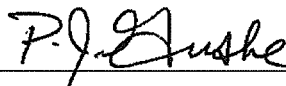
A handwritten signature in black ink, appearing to be 'Carrie Chung', written over a horizontal line.

Carrie Chung

VERIFICATION

I, Patrick J. Guske, am a petitioner in the action titled *Advokids et al. v. County of Los Angeles Department of Children and Family Services et al.* I declare under penalty of perjury that the facts that pertain to me in the foregoing document titled "First Amended Complaint" are true and correct to the best of my information and belief.

Executed under the laws of the State of California, in Pasadena, CA on this 20 day of November, 2014.



Patrick J. Guske

1 **PROOF OF SERVICE**

2 I am employed in the county of Los Angeles, State of California. I am over the age of 18  
3 and not a party to the within action; my business address is 128 N. Fair Oaks Avenue, Pasadena,  
4 California 91103.

5 On November 24, 2014, I served the foregoing document described as: **FIRST AMENDED**  
6 **PETITION FOR WRIT OF MANDATE UNDER C.C.P. SECTION 1085 AND COMPLAINT**  
7 **FOR INJUNCTIVE AND DECLARATORY RELIEF UNDER C.C.P. SECTION 526 (a)** on the  
8 interested parties in this cause by placing true and correct copies thereof in envelopes addressed as  
9 follows:

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Tomas A. Guterres, Esq. James C. Jardin, Esq. COLLINS COLLINS MUIR + STEWART LLP 110 El Centro Street South Pasadena, California 91030 Telephone: (626) 243-1100 Facsimile: (626) 243-1111	<b>Attorneys for Defendants COUNTY OF LOS ANGELES (erroneously sued as LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES) and PHILLIP BROWNING</b>
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11 **XX BY U.S. MAIL**

12 I deposited such envelope in the mail at Pasadena, California. The envelope was mailed  
13 with postage thereon fully prepaid.

14 XX I am readily familiar with the firm's practice of collection and processing correspondence  
15 for mailing. Under that practice it would be deposited with U.S. postal service on the same day with  
16 postage thereon fully prepaid at Pasadena, California in the ordinary course of business. I am aware that  
17 on motion of the party served, service is presumed invalid if postal cancellation date or postage meter  
18 date is more than one day after date of deposit for mailing this affidavit.

19 Executed on November 24, 2014, at Pasadena, California.

20 XX (State) I declare under penalty of perjury under the laws of the State of California that the  
21 above is true and correct.

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Jessica Valdenegro  
Declarant

