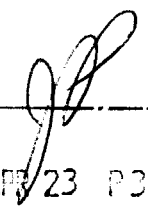


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CARLOS JUENKE
CLERK U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

97 - 1182

MARCIANO RODRIGUEZ, by his next friend and guardian LAZARO RODRIGUEZ, EMELINA RODRIGUEZ, RAFAEL CARAMAZANA, by his next friend and natural guardian MARIA CARAMAZANA, GINA MARTELLY, ANTONIA FERNANDEZ, by her next friend MILAGROS FERMIN, EDUARDO MARSANS, by his next friend and natural guardian EDUARDA FERNANDEZ, HENRIETTE GUILLAUME, on behalf of themselves and all others similarly situated; METROPOLITAN DADE COUNTY, FLORIDA, a political subdivision of the State of Florida; LAWTON M. CHILES, JR., Governor of the State of Florida; THE STATE OF FLORIDA; ROBERT A. BUTTERWORTH, Attorney General of Florida; EDWARD A. FEAVER, Secretary, Florida Department of Children & Family Services; DOUGLAS M. COOK, Director, Florida Agency for Health Care Administration,

Plaintiffs,

vs.

UNITED STATES OF AMERICA; DONNA E. SHALALA, in her capacity as Secretary of Health and Human Service; and JOHN J. CALLAHAN, in his capacity as Acting Commissioner of Social Security; DANIEL GLICKMAN, in his capacity as Secretary of Agriculture,

Defendants.

**CIV-GRAHAM
MAGISTRATE JUDGE
GARBER**

Case No. 97-

**CLASS ACTION
COMPLAINT**



COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, Marciano Rodriguez, by his next friend and guardian Lazaro Rodriguez, Emelina Rodriguez, Rafael Caramazana, by his next friend and guardian Maria Caramazana, Gina Martelly, Antonia Fernandez, by her next friend Milagros Fermin, Eduardo Marsans, by his next friend and natural guardian Eduarda Fernandez, Henriette Guillaume, on behalf of themselves and all others similarly situated; Metropolitan Dade County, Florida; Lawton M. Chiles, Jr., Governor of Florida; the State of Florida; Robert A. Butterworth, Attorney General of Florida; Edward A. Feaver, Secretary, Florida Department of Children and Family Services; and Douglas M. Cook, Director, Florida Agency for Health Care Administration, sue defendants, the United States of America; Donna E. Shalala, in her capacity as Secretary of Health and Human Services; John J. Callahan, in his capacity as Acting Commissioner of Social Security; and Daniel Glickman, in his capacity as Secretary of Agriculture, and allege:

NATURE OF THIS ACTION

1. This action seeks declaratory and injunctive relief from provisions of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, Title IV (110 Stat. 2105) (hereafter "Welfare Act"), on the basis that the Act on its face and as interpreted by the rule adopted by the Social Security Administration ("SSA") violates: (1) the Due Process Clause of the Fifth Amendment to the United States Constitution, by denying equal protection of the laws to those elderly, blind or other legal noncitizens who have disabilities, were legally residing in this country prior to the enactment of the Welfare Act, and whose Supplemental Security Income and related Food Stamp benefits will be denied or terminated under the Welfare Act solely on the basis of citizenship; (2) the Agreement for Reimbursement to the State for Interim Assistance

Payments pursuant to § 1631(g) of the Social Security Act and the Administrative Procedure Act by refusing to reimburse Dade County for “interim assistance” paid by Florida to legal noncitizens residing in Florida; and (3) Article IV, § 4, and the Tenth Amendment to the United States Constitution, by forcing a very few states, including Florida and its political subdivisions, to assume the cost of caring and providing welfare benefits to legal noncitizens who, prior to enactment of this law, were entitled to receive various benefits essential to their survival from the defendants.

2. The purported justification of these provisions of the Welfare Act is to: (1) discourage illegal immigration, and (2) to encourage self sufficiency among aliens. As applied to legal noncitizens resident in Florida, these purported justifications are wholly irrational. The Act’s denial of subsistence benefits to legal noncitizens who, by statutory definition, are severely impoverished and precluded from gainful employment by virtue of their advanced age, blindness or disability, bears no rational relation to the Act’s stated purposes of furthering the “self-sufficiency” of noncitizens and providing a disincentive for “illegal immigration.” These persons are lawfully residing in this State by affirmative action of the defendants. Denying them benefits can have no impact whatever on illegal immigration. These persons receive SSI benefits and related Food Stamps because they cannot work. Denying them benefits cannot make them self-sufficient. Furthermore, the Act’s denial of essential benefits solely on the basis of noncitizenship status invidiously singles out the most politically and physically vulnerable group of noncitizens for discriminatory treatment, notwithstanding that these need-based benefits are warranted by severe disabilities and/or advanced age.

JURISDICTION

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States; 28 U.S.C. § 1346, because the United States is a defendant; 28 U.S.C. §§ 2201 and 2202, because declaratory and injunctive relief is sought; and 42 U.S.C. § 405(g) because it is brought under the Social Security Act.

4. This Court has jurisdiction to declare the rights of the parties pursuant to 28 U.S.C. § 2201 because there is an actual controversy between the parties, and 22 U.S.C. § 2202 because the plaintiffs seek further necessary and proper relief that the Court deems appropriate.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the United States and its employees are defendants, a substantial portion of the events or omissions giving rise to the claims alleged have occurred and will continue to occur within the jurisdiction of this Court, and the plaintiffs reside in this judicial district.

PARTIES

6. Plaintiff Marciano Rodriguez brings this lawsuit through his next friend and legal guardian, his son Lazaro Rodriguez. Plaintiff Marciano Rodriguez lives in Hialeah, in Dade County, Florida. Mr. Rodriguez is 94 years old and has been a lawful permanent resident of the United States since the 1960s.

7. Plaintiff Emelina Rodriguez lives with her husband, Marciano Rodriguez, in Hialeah, in Dade County, Florida. Plaintiff Emelina Rodriguez is 88 years old and has been a lawful permanent resident of the United States since the 1960s.

8. Plaintiff Rafael Caramazana brings this case by and through his next friend and natural guardian, his mother Maria Caramazana. Plaintiff Caramazana has been a lawful permanent resident since 1983 when he immigrated to the United States from Cuba. He lives in Hialeah, in Dade County, Florida.

9. Plaintiff Gina Martelly immigrated to the United States from Haiti in 1969 and is currently a lawful permanent resident of the United States. Ms. Martelly lives in Miami, Florida.

10. Plaintiff Antonia Fernandez, brings this case through her next friend, her daughter Milagros Fermin. Ms. Fernandez has been a lawful permanent resident of the United States since she immigrated from the Dominican Republic in 1962. Ms. Fernandez lives in Dade County, Florida.

11. Plaintiff Eduardo Marsans, brings this case by and through his next friend and natural guardian, his mother Eduarda Fernandez. Mr. Marsans has been a lawful permanent resident of the United States since 1993. He lives in Miami, Florida.

12. Plaintiff Henriette Guillaume lives with her nearly 10 year old United States citizen daughter in North Miami, Dade County, Florida. She immigrated to the United States from Haiti in December 1984, and is currently a lawful permanent resident of the United States.

13. Plaintiff Metropolitan Dade County, Florida is a political subdivision of the State of Florida established pursuant to Article VIII, § 11, of the Florida Constitution of 1885, as amended, incorporated into the 1968 Constitution by Article VIII, § 6(e).

14. Plaintiff Lawton M. Chiles, Jr., is a citizen, resident and taxpayer of the United States and the State of Florida. Plaintiff Chiles is the Governor of Florida and, pursuant to

Article IV of the Florida Constitution, exercises the supreme executive power of the State of Florida. He is also responsible for initial preparation of the state budget, which, as a requirement of the Florida Constitution, must be balanced. *See* Article VII, § 1(d), Fla. Const., and § 216.162, Fla. Stat. In this capacity the Governor, in order to cover the costs of providing essential services and benefits to legal noncitizens, must recommend to the Florida Legislature that it either cut spending for other important state obligations and programs or that it increase taxes levied upon the residents and citizens of the State.

15. Plaintiff State of Florida is a sovereign state of the United States, whose political subdivisions are or are about to be denied reimbursements for “interim assistance” payable to them pursuant to § 1631(g) of the Social Security Act, and whose citizens, residents and taxpayers are adversely and disproportionately affected by the Act in comparison to the citizens, residents and taxpayers of other states of the United States.

16. Plaintiff Robert A. Butterworth is the Attorney General of Florida, and pursuant to Article IV, § 4(c), of the Florida Constitution, is the chief state legal officer. He is authorized to appear in and attend all suits in which the state is interested. § 16.02(4) & (5), Fla. Stat.

17. Plaintiff Edward A. Feaver is the Secretary of the Florida Department of Children and Family Services (Department) and is charged with the responsibility, *inter alia*, to administer various welfare programs. The Department is required by the Welfare Act to recertify the eligibility of “qualified aliens” (as described herein) receiving Food Stamps under the federal Food Stamps program.

18. Plaintiff Douglas M. Cook is the Director of the Florida Agency for Health Care Administration and is charged with the responsibility of administering the Medicaid program in Florida.

19. Defendant United States of America is a sovereign entity with the powers and duties specified in the Constitution of the United States and Acts of Congress.

20. Defendant Donna E. Shalala is the Secretary of Health and Human Services (hereafter "SSA") and as such she supervises those persons who administer the federal Supplemental Security Income program ("SSI"), as authorized by Title XVI of the Social Security Act, 42 U.S.C. § 1381(a). She is sued in her official capacity.

21. Defendant John J. Callahan is the Acting Commissioner of the Social Security Administration ("SSA") and as such is responsible for the administration of SSI. He is sued in his official capacity.

22. Defendant Daniel Glickman is the Secretary of Agriculture and as such he supervises those persons who administer the federal Food Stamps program, as authorized by the Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq. He is sued in his official capacity.

CLASS ACTION ALLEGATIONS

23. Plaintiffs Marciano and Emelina Rodriguez, Rafael Caramazana, Gina Martelly, Antonia Fernandez and Eduardo Marsans bring this case as a class action, pursuant to the provisions of Rule 23(b)(2) of the Federal Rules of Civil Procedure, for injunctive and declaratory relief on behalf of a class of all persons similarly situated.

24. The class of plaintiffs consists of all poor, elderly or disabled noncitizens legally residing in Florida who were formerly eligible for, or who will be eligible for in the future,

federal SSI and related Food Stamps, and who, based solely on their noncitizen status, will lose, be denied or have been denied SSI benefits and related Food Stamps as a result of the Welfare Act.

25. The plaintiffs' class consists of an unknown but extremely large number of individuals, approximately 54,000 individuals in South Florida alone, so that joinder of all members is impracticable.

26. Controlling issues of law and fact are common to all members of the plaintiff class in that each is a person lawfully residing in the United States and the State of Florida and each will lose SSI and related Food Stamp benefits solely as a result of the enactment of the Welfare Act.

27. The claims of the named plaintiffs are typical of the claims of class members, in that the named plaintiffs are lawfully residing in Florida, are blind, disabled or aged according to the eligibility standards specified in Title XVI of the Social Security Act, 42 U.S.C. §§ 1381-1383(d), and have been, are being, or will be denied SSI and related Food Stamps based solely on their citizenship.

28. The named plaintiffs will fairly and adequately protect and represent the interests of the class members. The named plaintiffs have no interests adverse to the plaintiff class. Plaintiffs' attorneys are experienced in federal class action litigation asserting constitutional claims and have no interests adverse to the plaintiff class.

29. Defendants have acted on grounds generally applicable to the class in that defendants have manifested their intention to deny SSI and related Food Stamps to each and every member of the plaintiff class based solely on their alien status, thereby making appropriate final declaratory and injunctive relief with respect to the class as a whole.

FACTUAL ALLEGATIONS

Marciano Rodriguez

30. Plaintiff Marciano Rodriguez brings this lawsuit through his next friend and legal guardian, his son Lazaro Rodriguez. Mr. Rodriguez has been a lawful permanent resident of the United States since the 1960s, when he came at the invitation of the United States Government after spending five years as a political prisoner in Cuba. Mr. Rodriguez is 94 years old. Even though Mr. Rodriguez was in his sixties when he came to this country, he worked for about five years after his arrival, first in a lamp factory and later as a security guard. He was regularly taxed for contributions to the Social Security system but did not vest because his advanced age and poor health prevented him from working for the requisite number of quarters.

31. Mr. Rodriguez now suffers from numerous physical and mental disabilities, including advanced organic brain disorder, Parkinson's disease and severe heart disease. He cannot walk and is dependent on a pacemaker to stay alive. He lives with his 88 year old wife, plaintiff Emelina Rodriguez. Their only income and support comes from their monthly SSI benefits, and both have been notified that those benefits will be terminated if they do not provide SSA with proof of their continued eligibility under the Welfare Act by May 12, 1997. Without SSI benefits, Mr. Rodriguez risks going hungry, becoming homeless and going without the home care that he depends upon for such basic needs as bathing, eating and taking his six different medications.

32. Although Mr. Rodriguez has now applied to become a citizen, it is highly unlikely that he will be qualified to naturalize. Even if the Department of Immigration and Naturalization Service ("INS") waives Mr. Rodriguez' English test and civics exam, his mental

disabilities in all likelihood would prevent him from having the capacity to take the oath of allegiance.

Emelina Rodriguez

33. Plaintiff Emelina Rodriguez came to this country with her husband, plaintiff Marciano Rodriguez, in the 1960s. She, too, worked for several years after her arrival in the United States, paying regular income and social security taxes, but falling short of the requisite number of quarters necessary to vest in benefits.

34. Mrs. Rodriguez has been a lawful permanent resident of the United States since the 1960s. She depends completely on her SSI benefits to meet all of her living expenses. Without her SSI benefits, Mrs. Rodriguez risks going hungry, becoming homeless and being unable to provide care for her frail husband, plaintiff Marciano Rodriguez.

35. Mrs. Rodriguez recently applied to become a United States citizen. Although she may qualify for naturalization if the English and civics examinations are waived, the INS has informed her that it will be at least six to nine months before they will even begin to process her application. Furthermore, after her benefits have been terminated, she will face another delay of several months to have her SSI benefits restored. In the interim, Mrs. Rodriguez risks going hungry, becoming homeless and being unable to provide care for her frail husband, plaintiff Marciano Rodriguez.

Rafael Caramazana

36. Plaintiff Rafael Caramazana brings this case by and through his next friend and natural guardian, his mother Maria Caramazana. Mr. Caramazana was born in Cuba in 1965 with severe brain damage and cerebral palsy. He has quadriplegia and lacks motor skills. He must

use a wheelchair and has to rely on others to move the wheel chair for him. He also lacks the ability to speak.

37. Mr. Caramazana immigrated to the United States with his parents as a lawful permanent resident in 1983 when he was 18 years old and the family was reunited with their relatives in the United States under federal immigration law. He still lives with his parents and his mother plans to continue to care for him as long as she is physically able. Currently, Mr. Caramazana attends a special day program for persons with disabilities and receives home care to assist him with bathing, eating and using the bathroom, none of which he can do on his own. He receives SSI and related Food Stamps on which the family depends in order to be able to care for him.

38. Mr. Caramazana's father, Miguel Angel Caramazana, has worked in a factory since he arrived in this country in 1983. He earns about \$220 a week before taxes. Mr. Miguel Angel Caramazana has worked more than forty qualifying quarters, and paid all applicable social security and other taxes. Last year he became a United States citizen. Because caring for Rafael Caramazana takes all of Maria Caramazana's time and energy, the family's only income is Miguel Angel Caramazana's weekly paycheck and Rafael Caramazana's monthly SSI benefit.

39. The Caramazana family has received notification that Mr. Caramazana's SSI benefits will be terminated unless he can establish his eligibility under the new standards by May 12, 1997. Although the Caramazana family has repeatedly applied for Plaintiff Rafael Caramazana to become a United States citizen, their applications have been rejected on the basis that his severe mental impairments prevent him from taking the oath of allegiance. Without Mr. Caramazana's SSI benefits and related Food Stamps, he and his family risk losing their meager apartment, going

hungry and doing without home care for him.

Gina Martelly

40. Plaintiff Gina Martelly immigrated to the United States from Haiti in 1969, when she was ten years old. She is deaf and mentally retarded. She is severely linguistically impaired, and has trouble understanding and communicating even in sign language. Although almost every day presents a difficult struggle for Ms. Martelly, she is making every effort to improve her lot in life and achieve some self-sufficiency.

41. Ms. Martelly is currently enrolled in a special vocational training program for the hearing impaired where she is learning sewing and studying textile design. She plans to graduate in one year and hopes to get a job in the garment industry. She is also on a waiting list to move into her own apartment.

42. Ms. Martelly depends entirely on her SSI benefits to survive at this time. Without her monthly SSI check she will be unable to continue her vocational training program and to move into her own apartment. She currently possesses no job skills and her severe communication impairments prevent her from entering the workforce, the very impediments her training program is designed to help her overcome.

43. Ms. Martelly, who has been a lawful permanent resident of the United States as far back as she can remember, applied for naturalization in August of last year. She has not received a waiver for the English and civics portions of the examination and it is therefore highly unlikely that she will be able to pass the examination and become a United States citizen. If she cannot naturalize she will lose her SSI benefits and any hope of becoming self sufficient.

Antonia Fernandez

44. Plaintiff Antonia Fernandez is an 80 year old lawful permanent resident of the United States. She brings this case by and through her daughter and next friend, Milagros Fermin. Ms. Fernandez has lived in the United States since 1962 when she came from the Dominican Republic to rejoin family members pursuant to federal immigration law.

45. Ms. Fernandez suffers from numerous incapacitating illnesses which developed many years after she arrived in this country, including organic brain syndrome, psychosis, senility and Alzheimer's disease. Ms. Fernandez is also deaf, has hypertension and arteriosclerotic heart disease. She is unaware of her surroundings most of the time and has lost the ability to communicate.

46. Ms. Fernandez needs 24 hour care as she is completely unable to care for herself. She resides in a special home where she is cared for by a home care worker and a social worker. She is able to pay for this residence only through her monthly SSI disability benefit, which she has received for about fifteen years. She has received notification from SSA that her SSI benefits will be cut off unless she provides proof of her continuing eligibility under the Welfare Act by May 12, 1997.

47. Ms. Fernandez has applied for U.S. citizenship but will probably not be able to naturalize since she now lacks the capacity to take the oath of allegiance. Although she worked in this country as a seamstress after her arrival, she has been informed by SSA that she does not have sufficient qualifying quarters to continue receiving the benefits. Thus, under the Welfare Act Ms. Fernandez faces complete termination of her SSI benefits due to her lack of citizenship.

48. If Ms. Fernandez' SSI benefits are terminated, she will have to do without the 24 hour attention that she needs. Without such essential care and supervision, Ms. Fernandez risks serious injury and even death.

Eduardo Marsans

49. Plaintiff Eduardo Marsans brings this case by and through his next friend and natural guardian, his mother Eduarda Fernandez. Mr. Marsans has cerebral palsy and quadriplegia. He must use an electric wheelchair to get around. Mr. Marsans, his mother and his younger brother came to the United States from Cuba when Eduardo was thirteen. They have been lawful permanent residents of this country since 1993.

50. Mr. Marsans lives with his mother, who spends almost all her time caring for him because they have no other assistance available to them. They also live with Mr. Marsans's younger brother, Miguel, a teenager who has been working full time for three years as a tile setter to help support the family. Miguel Marsans works for minimum wage, earning about \$250 per week.

51. Mr. Marsans receives SSI benefits and related Food Stamps on which the family depends in order to be able to pay their rent and buy enough food for him. He has received a notice from SSA that his benefits will be terminated unless he submits proof of his continued eligibility for SSI by May 12, 1997. Because Mr. Marsans is not eligible for naturalization until May 1998, when he will have completed the requisite five years of lawful residence, he will not be able to submit such proof and his SSI and related Food Stamps will be terminated. Without SSI and related Food Stamps Mr. Marsans and his family risk homelessness and hunger.

Henriette Guillaume

52. Plaintiff Henriette Guillaume immigrated to the United States from Haiti in December 1984. She worked, first at a garden, then at a day care center, and lastly at a nursing home. She paid Social Security taxes. Through her work, she supported herself and her United States citizen daughter, Melissa Guillaume, who was born on April 25, 1987. In 1990, she was in an automobile accident and became paralyzed as a result. She has paraplegia. She must use a wheelchair for mobility, and she is unable to transfer herself in and out of the chair. As a result, she needs personal care assistance in order to use the bathroom, shower, dress and undress herself, and to go in and out of bed. She presently receives one to two hours of home care assistance during the week. Her sister and daughter help her the rest of the time.

53. Ms. Guillaume is a lawful permanent resident. In November 1995, she applied to become a United States citizen. She is waiting for her application to be processed. She speaks English fluently. Because of delays in processing applications for naturalization, it is unlikely that she will become a citizen before her SSI benefits are cut off.

54. Ms. Guillaume uses her SSI check of \$484 to support herself and her United States citizen daughter. She also receives a small amount of money (\$153) from Florida's welfare program (WAGES) for her daughter's support. She is a single mother and receives no support from Melissa's father, who has not had any contact with her or her daughter since her accident. Ms. Guillaume receives SSI-related Food Stamps for herself. Her daughter also receives Food Stamps. Henriette Guillaume's SSI benefits enable her to provide housing, clothing and adequate food for herself and her daughter. Without her SSI benefits and SSI-related food stamps, Ms. Guillaume and her United States citizen daughter risk going hungry and becoming homeless. If her mother is

unable to support her and to provide adequate food and shelter, Melissa Guillaume may be removed from her loving mother and put in foster care at much greater expense to the State of Florida and the United States.

Impact on the State of Florida and Dade County

55. Plaintiffs Dade County and the State of Florida calculate that as of December 1996 some 79,834 legal noncitizens residing in Florida were receiving SSI. Plaintiffs further calculate that as of January 1997 some 38,123 legal noncitizens residing in Florida were receiving Food Stamps related to SSI benefits. The majority of these legal noncitizens reside in Dade County.

56. Plaintiffs Dade County and the State of Florida also calculate that 68% of Florida's legal noncitizens receiving SSI in December 1996--54,000 persons, like the named plaintiffs --will be left without these essential subsistence benefits as a result of the Welfare Act. Of this number, plaintiffs estimate 15,047 are under age 65, the remainder are over age 65, and that 6,944 are age 85 or over.

57. Plaintiffs Dade County and the State of Florida further calculate that 38,123 of Florida's legal noncitizens receiving Food Stamps related to SSI benefits in January 1997 will be ineligible for Food Stamps as a result of the Welfare Act. Of this number, plaintiffs estimate that 27,500 are age 65 or over and that 4,902 are age 85 or over, like Mr. and Mrs. Rodriguez.

58. According to INS' estimates, three out of every four legal permanent residents reside in one of six states: either Florida, California, New York, Texas, New Jersey or Illinois. More than 1,000,000 legal noncitizens were believed to be residing in Florida before August 22, 1996. All of these individuals reside in Florida by action of the federal government. However, INS estimates that, as of April 1996, only 405,000 out of the 790,000 legal permanent

residents believed to be residing in the State of Florida at the time were eligible for United States citizenship.

59. Naturalization is not a viable alternative for a substantial number of those who will lose SSI and related Food Stamps benefits under the Act. Many of the SSI recipients like Marciano Rodriguez or Rafael Caramazana do not possess the capacity to understand or learn the English language, pass a civics test, or swear the oath of allegiance. Even if these examinations are waived, many like Rafael Caramazana and Marciano Rodriguez, lack the capacity to take the oath of allegiance. Moreover, the relatively few who can naturalize face the daunting prospect of lengthy delays in the naturalization process for up to two years due to INS backlogs, leaving a large time gap between when their benefits terminate and when they can naturalize. Upon information and belief, the INS offices in Florida have an existing backlog of 86,982 or more pending applications for naturalization. The many additional applications spurred by the Act can be expected to significantly exacerbate the backlog.

60. Many SSI and related Food Stamps beneficiaries who are “qualified alien” residents in Florida, like all the named Plaintiffs, will be unable to support themselves. Although some of the legal noncitizens resident in Florida may be eligible for public assistance programs financed in whole or in part by the State and Dade County, such as Medicaid or the Work and Gain Economic Self Sufficiency (WAGES) programs, the State of Florida and Metropolitan Dade County do not have programs equivalent or even similar to SSI and related Food Stamps for the aged, blind or persons with disabilities, like the named Plaintiffs in this action.

61. Nearly all of the above-identified recipients of SSI and related Food Stamps depend on these benefits for their survival. When the Welfare Act becomes operative, the State of

Florida, Dade County and other local governments will necessarily be confronted with an overwhelming demand for essential services, including food, shelter, medical and hospital care, nursing home services, and police services. Dade County, in particular, will face a social and fiscal crisis of enormous proportions. Already one of the nation's poorest metropolitan counties on the basis of per capita income, Dade County is the residence for a disproportionate share of the State's legal noncitizen population, who will now lose even their subsistence benefits under the Act.

62. When the Welfare Act becomes operative, approximately 54,000 noncitizens currently receiving SSI will no longer be categorically eligible for Medicaid. Because Florida has exercised its option under the federal welfare law to provide Medicaid coverage to qualified aliens, at an estimated cost of \$51 million to the taxpayers of Florida, the Florida Department of Children and Family Services (which determines eligibility for the Medicaid program) will be required to make eligibility determinations as to each of these individuals, imposing a significant administrative cost, at an estimated additional \$16 million, to the State.

63. Because the State of Florida Agency for Health Care Administration administers Medicaid, this Agency will also be significantly burdened and will also incur significant costs.

64. Some legal noncitizens are eligible for admission to nursing homes based on their current health status but live with their families such as the Rodriguez family or Mr. Caramazana or in less costly facilities such as Mr. Hernandez and support themselves with SSI payments. Some of these individuals who will lose SSI eligibility, like Ms. Fernandez, will be forced into costly nursing home care. It is estimated that nearly 800 are currently eligible for admission to nursing homes, at an estimated cost of \$29 million to the taxpayers of Florida.

65. Legal noncitizens resident in Florida also will be denied Food Stamps related to SSI benefits, another program administered by the Florida Department of Children & Family Services. Moreover, because of the Department's role, imposed by the Welfare Act, in making Food Stamp determinations, the Department will be under a legal duty to participate in the unconstitutional violation challenged here.

66. Furthermore, because of the Florida Department of Children & Family Services' role in making eligibility determinations for and providing financial assistance through WAGES and Medicaid programs for noncitizens newly ineligible for SSI and Food Stamps, as well as making eligibility determinations for the Food Stamp program, the Florida Department of Children & Family Services and the Florida Agency for Health Care Administration has a significant relationship with the "qualified aliens" resident in Florida whose equal protection rights are being violated.

67. Plaintiffs Dade County and the State of Florida calculate, and so allege, that the direct financial impact on the State of Florida will be \$258,214,502 annually, equal to the value of the SSI and related Food Stamps benefits that will be denied "qualified aliens" resident in Florida who are current recipients.

68. Therefore, Plaintiffs calculate, and so allege that the total impact on the State of Florida will be at least \$304,014,502, equal to the value of denied SSI and related Food Stamps benefits, unreimbursed interim assistance, and administrative and other costs incurred as a result of the Welfare Act.

COUNT I

Violation of the Plaintiff Class' Fifth Amendment Rights

69. Plaintiffs, Marciano Rodriguez, Emelina Rodriguez, Rafael Caramazana, Gina Martelly, Antonia Fernandez, Eduardo Marsans, Henriette Guillaume, on behalf of themselves and all others similarly situated, reallege paragraphs 1 through 68.

The Supplemental Security Income Program

70. In 1972, the SSI program was established by Title XVI of the Social Security Act. Congress' stated intent in that legislation was to establish a national program with uniform standards to provide minimal subsistence benefits to individuals 65 years of age or older or who are blind or who have disabilities which prevent them from being able to earn a living and who have insufficient other income or resources to support themselves. SSI benefits, which still leave the recipient far below the federal poverty level, provide minimal income to persons without the means or capacity to provide for the most basic human needs. 42 U.S.C. §§ 1382, 1381a.

71. To be disabled for purposes of the SSI program, an individual must be unable to engage in any substantial gainful activity by reason of any medical, physical, or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months (or, in the case of a child under the age of 18, if she suffers from any medical, physical, or mental impairment which results in marked or severe functional limitations, and which has lasted or can be expected to last for a continuous period of not less than 12 months). 42 U.S.C. § 1382c(a)(3)(A), as amended by § 211 of the Welfare Act.

72. Adults are considered to have sufficient disabilities to qualify only if their physical or mental impairment(s) are of such severity that they are not only unable to do their

previous work but cannot, due to their age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether a specific job vacancy exists for them, or whether they would be hired if they applied for work. 42 U.S.C. § 1382(a)(3)(B).

73. For purposes of SSI eligibility, individuals are considered blind if they have central visual acuity of 20/200 or less in the better eye with the use of a correcting lens or an equivalent loss of vision. 42 U.S.C. § 1382(c)(2).

74. All SSI eligible individuals, whether aged, blind, or having such disabilities, must meet a stringent income and resources test. An individual SSI applicant or recipient may have no more than \$2,000 in resources (including vehicles and personal property) and countable income must be below the applicable SSI benefit level. 42 U.S.C. §§ 1382a, 1382b. If an SSI recipient obtains any other source of income, the SSI benefit is reduced accordingly. Those who meet the stringent income and resources test may be entitled to receive the maximum 1997 federal SSI benefit rate for one person which is \$484 per month. The federal poverty level is currently \$658 per month for an individual. 61 Fed. Reg. 8286.

75. There are no prior work history requirements for SSI eligibility. 42 U.S.C. § 1381, et seq.

The Food Stamp Program

76. The Food Stamp program was enacted in 1964 by Congress to safeguard the health and well-being of the nation's population by raising levels of nutrition among low-income households. Congress found that "the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households." 7 U.S.C. § 2011.

77. The Food Stamp program is administered by states under the supervision of the United States Department of Agriculture (USDA). States must follow rules governing Food Stamps promulgated by USDA.

78. Food Stamp eligibility is limited to households whose net income is below the federal poverty level and whose resources are below \$2000, or if a household member is age 60 or older, \$3000. 7 U.S.C. § 2014(c) and (g).

79. SSI eligible recipients, by virtue of their extreme poverty, also are categorically qualified to receive Food Stamps. 7 U.S.C. § 2014(a). Any household which contains an SSI recipient is automatically eligible for Food Stamps. 7 U.S.C. § 2014(a).

The Welfare Act

80. Before Congress enacted the Welfare Act in 1996 all persons lawfully residing in the United States of America, citizens and noncitizens alike, who were aged, blind, or had disabilities and whose countable income and resources fell below eligibility thresholds, qualified for SSI benefits and related Food Stamps.

81. On August 22, 1996, the Welfare Act was signed into law. Section 431 of the Welfare Act created a new eligibility category called “qualified aliens.” Under § 431, a “qualified alien” is a noncitizen who, at the time the noncitizen applies for, receives, or attempts to receive a Federal public benefit is

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
- (2) an alien who is granted asylum under § 208 of such Act;
- (3) a refugee who is admitted to the United States under § 207 of such Act;

- (4) an alien who is paroled into the United States under § 212(d)(5) of such Act for a period of at least 1 year;
- (5) an alien whose deportation is being withheld under § 243(h) of such Act,
- (6) an alien who is granted conditional entry pursuant to § 203(a)(7) of such Act as in effect prior to April 1, 1980, or
- (7) a battered alien as referenced in § 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

82. As such, all “qualified aliens” are legal immigrants, lawfully present and resident in the United States, or battered aliens as referenced in § 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 . The decision to admit each of these qualified aliens in the State of Florida, was that of an agency of the United States, not that of Florida.

83. Section 402(a)(1)(2) and (3) of the Welfare Act provides that with certain narrow, defined exceptions no qualified alien is eligible for supplemental security income under Title XVI of the Social Security Act or Food Stamps pursuant to § 3(h) of the Food Stamp Act of 1977. Consequently, the Welfare Act renders most noncitizens ineligible for SSI benefits and related Food Stamps.

84. Section 402(a)(2)(D)(i) provides that within one year of the date of enactment of the Welfare Act (which is, by August 22, 1997) the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits as of the date of the enactment of the Welfare Act and whose eligibility for such benefits may terminate by reason of § 402(a)(1) of the Act.

85. Section 402(a)(2)(D)(ii) provides that within one year of the date of enactment of the Welfare Act (which is, by August 22, 1997), the relevant state agency, here, the

State of Florida Department of Children and Family Services, shall be required to recertify the eligibility of any individual who is receiving Food Stamps as of the date of enactment of the Welfare Act and whose eligibility for such benefits may terminate by reason of § 402(a)(1).

86. In enacting the Welfare Act, Congress declared two purposes for denying SSI and related Food Stamps to otherwise legal noncitizens: (1) to “assure that aliens be self-reliant,” and (2) to “remove the incentive for illegal immigration provided by the availability of public benefits.” On its face and as applied to members of the plaintiff class, the Welfare Act furthers neither interest identified by Congress and is wholly irrational.

87. Denying SSI and related Food Stamps to members of the plaintiff class cannot encourage them to be “self-reliant.” Members of this class, are by definition, unable to work and without assets or other means of support. Denying them basic subsistence benefits can only make members of the plaintiff class less self-reliant since they are likely to become homeless, hungry and unable to provide care for themselves as a result of the Welfare Act. Many face the uncertain prospect of being institutionalized or re-institutionalized at greater public expense if the SSI benefits which permitted them a modicum of independent living are withheld.

88. Denying basic subsistence benefits to class members -- legal noncitizens who are blind, elderly or whose disabilities preclude them from substantial gainful employment -- cannot and will not deter illegal immigration. Members of the plaintiff class are not living in this country illegally; rather they reside here at the invitation of the United States government. Persons illegally present in the United States have never been eligible for SSI and related Food Stamps.

89. Denying SSI benefits and related Food Stamps to members of the plaintiff class, based solely on the fact that they are not United States citizens, denies them the equal protection of the laws, as guaranteed by the Due Process Clause of the Fifth Amendment to the United States Constitution.

WHEREFORE, plaintiffs, Marciano Rodriguez, Emelina Rodriguez, Rafael Caramazana, Gina Martelly, Antonia Fernandez, Eduardo Marsans, Henriette Guillaume, on behalf of themselves and all others similarly situated, respectfully request that this Court:

- A. Assume jurisdiction over this matter;
- B. Certify this matter as a class action pursuant to Federal Rule of Civil Procedure 23;
- C. Declare that the Welfare Act, as it applies to members of the plaintiff class, violates plaintiffs' right to equal protection of the laws as guaranteed by the Due Process Clause of the Fifth Amendment to the United States Constitution;
- D. Issue a preliminary and permanent injunction restraining defendants from enforcing § 402 of the Welfare Act;
- E. Award class plaintiffs attorneys' fees and costs in this action; and
- F. Grant such other and further relief as the Court deems just and equitable.

COUNT II

Violation of Administrative Procedure Act -Abuse of Discretion- as to the State of Florida and Metropolitan Dade County

90. Plaintiffs, the State of Florida and Metropolitan Dade County, reallege paragraphs 1 through 89.

91. The SSA upon information and belief takes approximately one to two years to determine whether an applicant is eligible for SSI and to issue the first monthly benefit check.

92. In recognition of this lengthy application process, Congress and the Secretary of Health and Human Services have encouraged states and local governments to provide SSI applicants with interim assistance during the application period. See 42 U.S.C. §1383(g); 20 C.F.R. §416.1901-1922.

93. The State of Florida and Metropolitan Dade County agreed to provide this interim assistance to SSI applicants residing in Dade County and therefore entered into an agreement with the Secretary of Health and Human Services in 1989 entitled, "Agreement for Reimbursement to State for Interim Assistance Payments Pursuant to Section 1631(g) of the Social Security Act."

94. Under that agreement, Dade County created an interim assistance program in which it provides interim assistance to applicants for SSI residing in Dade County. In return, the Secretary of Health and Human Services allows Dade County to recover the interim assistance out of the first retroactive lump sum payment that SSA issues to a successful applicant.

95. The Commissioner of Social Security Administration promulgated Programs Operations Manual Systems, Number 00502.150A.2 which indicates that legal permanent residents who had pending claims or appeals on August 22, 1996, are ineligible to receive SSI benefits, even for the period of time prior to the enactment of the Welfare Act. In other words, the Commissioner has applied the Welfare Act retroactively.

96. By adopting a rule applying the Welfare Act retroactively to deny SSI benefits to legal noncitizens, even for the period of time prior to enactment, the Commissioner is also

refusing to reimburse Dade County for the interim assistance that it has already advanced to those legal noncitizens.

97. Upon information and belief, Metropolitan Dade County has thereby lost approximately \$800,000 in interim assistance revenue, revenue that would be available for future SSI applicants.

98. The Welfare Reform Act did not provide an effective date for the implementation of the new eligibility criteria in § 402(a). Specifically, the Welfare Act does not explicitly state that the new criteria in § 402(a) shall apply to benefits payable to legal residents for claims and appeals pending prior to the Welfare Act's enactment. In other words, the Welfare Act does not provide that § 402(a) be given retroactive effect.

99. Defendant Commissioner of Social Security Administration has given the Welfare Act retroactive effect promulgating Program Operations Manual Systems Number 00502.150A.2 (October 1996). This policy declares that any legal resident with a pending claim or appeal on August 22, 1996 is ineligible to receive any SSI benefits, even for the period of time prior to its enactment.

100. The Social Security Administration as an administrative agency cannot apply a new statute retroactively unless Congress has explicitly directed it to do so.

101. The Commissioner of Social Security Administration has violated the rules of statutory construction and has failed to give effect to the plain meaning of the Welfare Act.

102. The Commissioner's actions are contrary to law, arbitrary and capricious, an abuse of discretion, and in violation of the Administrative Procedure Act, 5 U.S.C. 55 et. seq.

WHEREFORE, plaintiffs, the State of Florida and Metropolitan Dade County, respectfully request that this Court:

- A. Assume jurisdiction over this matter;
- B. Declare that Program Operations Manual Systems Number 00502.150A.2 (October 1996) is contrary to law, arbitrary and capricious, an abuse of discretion and violates the Administrative Procedures Act, 5 U.S.C. 55, et seq.;
- C. Issue a preliminary and permanent injunction restraining defendants from retroactively enforcing § 402 of the Welfare Act;
- D. Award plaintiffs the State of Florida and Metropolitan Dade County attorneys' fees and costs in this action; and
- E. Grant such other and further relief as the Court deems just and equitable.

COUNT III

Violation of the rulemaking procedures of the Administrative Procedures Act as to the State of Florida and Metropolitan Dade County

103. Plaintiffs, the State of Florida and Metropolitan Dade County, reallege paragraph 1 through 102.

104. SSA's retroactive application of the Welfare Act is a rule, because it is an agency statement of general applicability and future effect designed to implement, interpret or prescribe law or policy.

105. SSA's retroactive application of the Welfare Act, being a rule, is subject to rulemaking procedures, including publication in the Federal Register for public notice and comment.

106. On information and belief, SSA did not publish its rule mandating retroactive application of the Welfare Act in the Federal Register for notice and comment, but instead issued it only in a Programs Operations Manual System.

107. SSA's failure to publish its substantive rule mandating retroactive application of the Welfare Act in the Federal Register violates the rulemaking procedures of the Administrative Procedures Act, 5 U.S.C. §553.

WHEREFORE, plaintiffs, the State of Florida and Metropolitan Dade County, respectfully request that this Court:

- A. Assume jurisdiction over this matter;
- B. Declare that Program Operations Manual Systems Number 00502.150A.2 (October 1996) was unlawfully promulgated and its promulgation violated the Administrative Procedures Act, 5 U.S.C. §553;
- C. Issue a preliminary and permanent injunction restraining defendants from applying Programs Operations Manual System Number 00502.150A.2 in order to retroactively enforce § 402 of the Welfare Act;
- D. Award plaintiffs the State of Florida and Metropolitan Dade County attorneys' fees and costs in this action; and
- E. Grant such other and further relief as the Court deems just and equitable.

COUNT IV

Common Law Breach of Contract as to Plaintiffs the State of Florida and Metropolitan

Dade County

108. Plaintiffs, the State of Florida and Metropolitan Dade County, reallege paragraphs 1 through 107.

109. The State of Florida and Dade County entered into an agreement with the Secretary of Health and Human Services in 1989 entitled, "Agreement for Reimbursement to State for Interim Assistance Payments Pursuant to Section 1631(g) of the Social Security Act."

110. Under the agreement, Dade County agreed to provide interim assistance from the County's general revenue funds to SSI applicants. Under the Agreement, Dade County has provided at least \$800,000 in interim assistance to the applicant between the date of application and the date of final receipt of the SSI benefits.

111. The Secretary of Health and Human Services in turn agreed to reimburse Dade County for the interim assistance by forwarding to Dade County, the initial retroactive lump sum payment awarded to the applicant.

112. The Secretary of Health and Human Services and the Commissioner of Social Security Administration have breached the contract with the State and Dade County by retroactively applying § 402 of the Welfare Act to legal residents with pending claims and appeals.

113. As a consequence of this breach of contract, Dade County and the state of Florida have been damaged.

WHEREFORE, plaintiffs, the State of Florida and Metropolitan Dade County, respectfully request that this Court:

- A. Assume jurisdiction over this matter;
- B. Declare that the “Agreement for Reimbursement to State for Interim Assistance Payments Pursuant to Section 1631(g) of the Social Security Act” between the United States and the state of Florida, has been breached as a result of defendant’s enforcement of the Welfare Act;
- C. Issue a preliminary and permanent injunction restraining defendants from enforcing § 402 of the Welfare Act as it applies to the Agreement for Reimbursement to State for Interim Assistance Payments Pursuant to Section 1631(g) of the Social Security Act;
- D. Order that defendants compensate plaintiff Metropolitan Dade County for all unreimbursed interim assistance provided under the Agreement;
- E. Award plaintiffs the State of Florida and Metropolitan Dade County attorneys’ fees and costs in this action; and
- F. Grant such other and further relief as the Court deems just and equitable.

COUNT V

Violation of the Article IV, § 4 and the Tenth Amendment as to Plaintiffs the State of Florida and Metropolitan Dade County

114. Plaintiffs, the State of Florida and Metropolitan Dade County, reallege paragraphs 1 through 113.

115. “Qualified aliens” are those noncitizens whose presence in the United States is lawful and in accordance with immigration laws. The plain purpose and clear effect of the Welfare Act is to deny these “qualified aliens” the most basic of federal benefits--benefits essential to survival--and therefore to make the few states in which these “qualified aliens” reside responsible

for supporting them. Consequently, the State and Dade County will not be reimbursed the interim assistance it provided “qualified aliens” in violation of the Agreement for Reimbursement to State for Interim Assistance Payment pursuant to § 1631(g) of the Social Security Act. This obvious and shameful effort on the part of Congress to wash its hands of the most needy is purely fiscal policy, not immigration policy. Insofar as it is the intent of the Welfare Act to discourage the future immigration of persons likely to become public charges, the denial of benefits to those already present totally fails to implement that goal. As a means to that end, the Welfare Act is wholly irrational. A policy to discourage future immigration of persons likely to become public charges can only be effective if applied to persons who enter the United States as legal noncitizens after the enactment of the Welfare Act. Furthermore, the refusal to reimburse the interim assistance provided these “qualified aliens” resident in Florida does nothing to further Congress’ stated goals.

116. The Welfare Act implements fiscal policy only, and the costs of this policy are disproportionately concentrated in only a few states, Florida among them. The Congressional representatives of states having few or no qualified aliens have forced this fiscal policy on the six states that have the overwhelming majority of qualified aliens. The Welfare Act is nothing more than an attempt to balance the federal budget on the backs of a few disfavored states.

117. The sovereign interests of the State of Florida and Dade County are violated by the denial of SSI and related Food Stamps to those “qualified aliens” heretofore eligible, because the State must, consistent with its duty to protect the public health and welfare, and to ensure public safety, provide benefits previously supplied by federal programs.

118. The sovereign interests of the State of Florida and Dade County are violated by the denial of SSA to reimburse interim assistance provided to “qualified aliens” heretofore

eligible pursuant to the Agreement for Reimbursement to State for Interim Assistance Payment pursuant to § 1631(g) of the Social Security Act. Plaintiffs calculate that SSA has refused to reimburse them \$800,000 to date.

119. The imposition of the above-described financial burdens constitutes a violation of Article IV, § 4 and the Tenth Amendment to the United States Constitution. The Welfare Act effectively commandeers Florida's legislative processes, requires Florida, as a state, to pay for federal fiscal policies, and makes federal legislative priorities Florida's legislative priorities. Congress cannot, consistent with Article IV, §4, and the Tenth Amendment, so conscript Florida's resources and political processes.

120. The Welfare Act makes meaningless the political accountability guaranteed by Article IV, § 4 and the Tenth Amendment. Because only five other states are similarly affected, the political process has proven inadequate to protect Florida's rights and to safeguard it from discrimination by the overwhelming majority of states.

121. Unless this court declares unconstitutional the denial of benefits to qualified aliens, the State of Florida will continue to have to pay a disproportionate share of the costs of Congress' misguided and discriminatory attempt to balance the federal budget. It is clear that the huge majority of states, which have few or no immigrants who are "qualified aliens", have every political incentive to cast the burden of their support on the few states where they are disproportionately concentrated. For this reason the political process has failed and will continue to fail those few states.

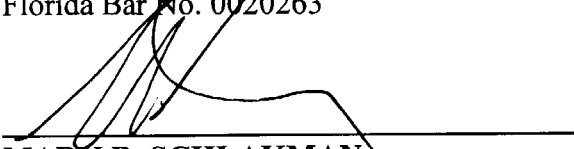
WHEREFORE, plaintiffs, the State of Florida and Metropolitan Dade County, respectfully request that this Court:

- A. Assume jurisdiction over this matter;
- B. Declare that the Welfare Act violates Article IV, §4, and the Tenth Amendment to the United States Constitution, because it conscripts plaintiffs' resources and political processes;
- C. Issue a preliminary and permanent injunction restraining defendants from enforcing § 402 of the Welfare Act;
- D. Award plaintiffs the State of Florida and Metropolitan Dade County attorneys' fees and costs in this action; and
- E. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted,

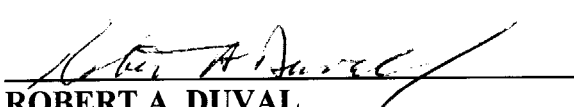
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GOVERNOR

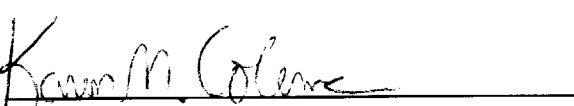

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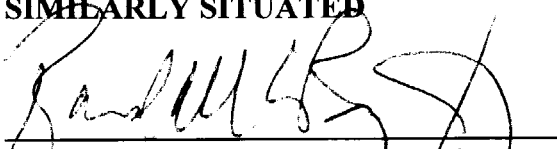
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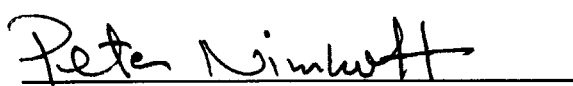

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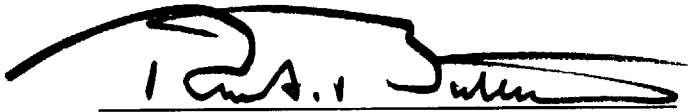

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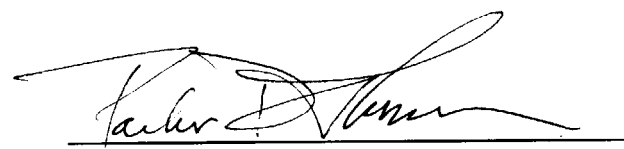
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CIVIL COVER SHEET

CIV-GRAHAM

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

I (a) PLAINTIFFS

SEE ATTACHMENT

DEFENDANTS

SEE ATTACHMENT

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

Dade

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

Dade

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

SEE ATTACHMENT

ATTORNEYS (IF KNOWN)

SEE ATTACHMENT

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1. U.S. Government Plaintiff
☒ 2. U.S. Government Defendant
☐ 3. Federal Question (U.S. Government Not a Party)
☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Case Only)

Citizen of This State

PTF ☒ 1DEF ☐ 1

Citizen of Another State

☐ 2☒ 2

Citizen or Subject of a Foreign Country

☐ 3☐ 3

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Incorporated or Principal Place of Business in This State

PTF ☐ 4DEF ☐ 4

Incorporated and Principal Place of Business in Another State

☐ 5☐ 5

Foreign Nation

☐ 6☐ 6

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.) 28 U.S.C. Sec. 2201

This action seeks declaratory and injunctive relief from provisions of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, Title IV (110 Stat/2105)

IVa. days estimated (for both sides) to try entire case

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

A CONTACT	A TORTS	B FORFEITURE PENALTY	A BANKRUPTCY	A OTHER STATUS
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl Veterans) B ☐ 153 Recovery of Overpayment of Veteran's Benefits B ☐ 160 Stockholder's Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury PERSONAL PROPERTY ☐ 362 Personal Injury-Med Malpractice ☐ 365 Personal Injury-Product Liability ☐ 368 Asbestos Personnel Injury Product Liability ☐ 370 Other Fraud ☐ 371 Truth in Lending B ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs ☐ 660 Occupational Safety/Health ☐ 690 Other A LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor Management Relations B ☐ 730 Labor Management Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Employee Ret. Inc. Security Act B	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark B SOCIAL SECURITY ☐ 861 HIA (1395m) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) A FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS-Third Party 26 USC 7809	☐ 400 States Reappointment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce/ICC Rates/etc B ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12USC3410 ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Equal Access to Justice ☐ 950 Constitutionality of State Statutes ☐ 890 Other Statutory Actions * * A or B
A REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure B ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	A CIVIL RIGHTS ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☒ 444 Welfare ☐ 445 Other Civil Rights	B PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence Habeas Corpus ☐ 530 General * ☐ 535 Death Penalty ☐ 540 Mandamus & Other * ☐ 550 Civil Rights * A or B		

VI. ORIGIN

- ☒ 1. Original Proceeding
☐ 2. Removed From State Court
☐ 3. Remanded from Appellate Court
☐ 4. Refiled
☐ 5. Transferred from another district (Specify)
☐ 6. Multidistrict Litigation
☐ 7. Appeal to District Judge from Magistrate Judgment

VII. REQUESTED

CHECK IF THIS IS A

CLASS ACTION

DEMAND \$800,000

Check YES only if demanded in complaint.

YES

NO

IN COMPLAINT

X UNDER F.R.C.P. 23

JURY DEMAND:

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

4/23/97

SIGNATURE OF ATTORNEY OF RECORD

Korn M. Tolene

UNITED STATES DISTRICT COURT

S/F 1-2

REV. 9/94

FOR OFFICE USE ONLY: Receipt No.

675771

Amount: 150.00

Date Paid:

04/23/97

W/tp:

PLAINTIFFS:

MARCIANO RODRIGUEZ, by his next friend and guardian LAZARO RODRIGUEZ, EMELINA RODRIGUEZ, RAFAEL CARAMAZANA, by his next friend and natural guardian MARIA CARAMAZANA, GINA MARTELLY, ANTONIA FERNANDEZ, by her next friend MILAGROS FERMIN, EDUARDO MARSANS, by his next friend and natural guardian EDUARDA FERNANDEZ, HENRIETTE GUILLAUME, on behalf of themselves and all others similarly situated; METROPOLITAN DADE COUNTY, FLORIDA, a political subdivision of the State of Florida; LAWTON M. CHILES, JR., Governor of the State of Florida; THE STATE OF FLORIDA; ROBERT A. BUTTERWORTH, Attorney General of Florida; EDWARD A. FEAVER, Secretary, Florida Department of Children & Family Services; DOUGLAS M. COOK, Director, Florida Agency for Health Care Administration,

DEFENDANTS:

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