

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814  
(916) 445-0885



February 14, 1983

ALL-COUNTY INFORMATION NOTICE I- 21-83

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: PRELIMINARY INJUNCTION, BAKER v. PROD

REFERENCE:

Attached is a Preliminary Injunction issued in Baker v. Prod, a class action lawsuit recently filed in Superior Court in San Francisco. The Preliminary Injunction requires each county welfare department to take steps immediately to preserve certain records.

The lawsuit is an offshoot of Turner v. Woods and the order in that case not to consider mandatory deductions as income in computing nonexempt income (see All County Letter 82-85 of August 25, 1982). The Turner order was not retroactive because the U.S. Constitution forbids federal courts from ordering retroactive monetary relief. The plaintiffs in Baker have filed in state court in order to gain that retroactive relief denied them in U.S. District Court in Turner.

The Preliminary Injunction was sought by the plaintiffs to assure that those persons who might eventually be entitled to relief under Baker could be identified. The plaintiffs asserted that by identifying ex-recipients and current recipients now case by case search costs could be avoided and more persons would be identified as potential class members.

The order requires SDSS to transmit a copy of the Preliminary Injunction to each county to immediately effectuate paragraphs 1 and 2 found on pages 2 and 3 of the order.

Paragraph 1 should not cause any additional action on your part at this time. It requires that counties not destroy certain case files and other records regarding persons who had mandatory payroll deductions between January 1, 1982 and August 31, 1982. As the retention rule requires such records be kept until mid-1985 the danger of immediate destruction is slight.

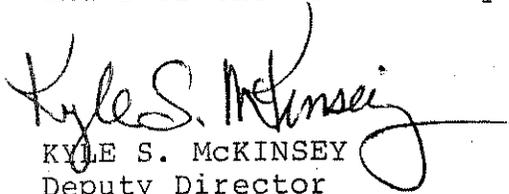
Paragraph 2 is a more complex order. It requires that counties retain, in any form the county deems appropriate, reports or lists, whether or not computerized, that identify persons whose AFDC benefits were terminated or reduced because of the treatment of mandatory payroll deductions between January 1, 1982 and August 31, 1982.

Persons terminated under the 150% income limit are not included in this order.

As you will note, the order requires another letter of instruction to you from SDSS by February 22, 1983, and a report by you to us by March 14, 1983. We are now preparing instructions and anticipate that they will be issued prior to the deadline.

We expect no further orders arising out of Baker v. Prod until Turner v. Woods is decided by the 9th Circuit Court of Appeal.

Please contact your management consultant at (916) 445-4458 if you have any questions regarding this letter or paragraphs 1 and 2 of the Preliminary Injunction.

  
KYLE S. MCKINSEY  
Deputy Director  
Welfare Program Operations

Atch.

cc: CWDA

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

JERRYLEAN BAKER, CARMEN SILVA, and )  
CALIFORNIA COALITION OF WELFARE )  
RIGHTS ORGANIZATIONS, on behalf of )  
themselves and all others )  
similarly situated, )

Plaintiffs, )

vs. )

JEROLD A. PROD, Director of the )  
Department of Social Services of )  
the State of California; KYLE )  
McKINSEY, Deputy Director of the )  
Department of Social Services of )  
the State of California; DEPART- )  
MENT OF SOCIAL SERVICES OF THE )  
STATE OF CALIFORNIA; MICHAEL )  
FRANCHETTI, Director of the )  
Department of Finance of the )  
State of California; and the )  
DEPARTMENT OF FINANCE OF THE )  
STATE OF CALIFORNIA, )

Defendants. )

ENDORSED  
**FILED**  
San Francisco County Superior Court  
FEB - 9 1983  
CARL M. OLSEN, Clerk  
BY MARTIN P. ANABU  
DEPUTY CLERK

CLASS ACTION

CASE NO. 804555

PRELIMINARY INJUNCTION

1           The above entitled matter came on for hearing on  
2 February 8, 1983, before the Honorable Stuart Pollack, in Depart-  
3 ment 3, pursuant to an Order to Show Cause Re Preliminary  
4 Injunction issued by this Court on January 21, 1983. Marilyn  
5 Kaplan Katz and Richard M. Pearl appeared as counsel for plain-  
6 tiffs. John J. Klee, Jr., Deputy Attorney General, appeared  
7 as counsel for defendants Jerold A. Prod, Kyle McKinsey and  
8 Department of Social Services.

9           This Court has considered the Complaint, supporting  
10 declarations and points and authorities on file in this action,  
11 and it appears to the satisfaction of this Court that this is a  
12 proper cause for granting a preliminary injunction, and that,  
13 unless such a preliminary injunction is issued in order to  
14 preserve the records relating to the plaintiff class, the  
15 members of the class represented by plaintiffs will suffer  
16 irreparable injury in that their rights will be rendered mean-  
17 ingless before this action proceeds to final judgment. Therefore

18           IT IS HEREBY ORDERED that during the pendency of this  
19 action, or until the final determination thereof, or until the  
20 Court shall otherwise order, the defendants, their successors  
21 in office, agents, assigns, employees, and all persons acting  
22 in concert with them, or subject to their control and super-  
23 vision, including employees of county welfare departments, shall  
24 be, and hereby are, enjoined and restrained as follows from:

25           1. Destroying any case files or other records which  
26 contain information regarding persons who are affected by the  
27 defendants' treatment of mandatory payroll deductions as income  
28 during the period from January 1, 1982 through August 31, 1982.

1           2. Failing to preserve and retain any information which  
2 is currently in computerized form, such as that appearing on  
3 the WICMIS file or the Case Data System, or any other reports  
4 or lists, computerized or non-computerized, that would identify  
5 persons whose AFDC benefits were terminated or reduced because  
6 of the defendants' treatment of mandatory payroll deductions as  
7 income during the period between January 1, 1982 and August 31,  
8 1982. The information may be preserved and retained by the  
9 preservation of any existing computer tapes themselves on which  
10 information is stored, by the making of computer tapes which  
11 contain the information relevant to members of the plaintiff  
12 class only, or by the making of a hard copy (i.e., on paper)  
13 record of the relevant information from the computer tapes.  
14 This order shall not be construed to require the production of  
15 new computer tapes from current hard copy records.

16           3. Failing to inquire of each applicant for a public  
17 assistance program (e.g., AFDC, Medi-Cal, Food Stamps, General  
18 Assistance) administered or implemented by a county concerning  
19 whether he/she was, during the period from January 1, 1982  
20 through August 31, 1982, affected by the defendants' treatment  
21 in the AFDC program of mandatory payroll deductions as income  
22 and to retain the names of those applicants that respond  
23 affirmatively;

24           4. Failing to inquire from every AFDC recipient, as  
25 part of the monthly CA-7 Review Process, whether the recipient  
26 was affected by the defendants' treatment of mandatory payroll  
27 deductions as income during the period between January 1, 1982  
28 and August 31, 1982, and to preserve and retain the names and

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affirmative

1 necessary information of all current recipients who respond. A  
2 stuffer shall be included with the form mailed to recipients to  
3 be used by them for reporting their monthly income. The stuffer  
4 shall inform recipients of this lawsuit and of the circumstances  
5 under which they may be eligible for retroactive benefits, i.e.,  
6 if they were working and receiving AFDC benefits during the  
7 affected period. The stuffer shall include a tear-off portion  
8 with space for name and other relevant information of the  
9 recipient. Recipients shall be instructed to return the tear-  
10 off portion of the stuffer notice along with their CA-7 form  
11 when they report their monthly income, if they believe they may  
12 be eligible for retroactive benefits in this case. This stuffer  
13 shall be included in the next monthly CA-7 mailing which is  
14 reasonably practical, preferably with the reports for February  
15 1983 income due in March 1983.

16 5. Failing to inquire from every recipient of other  
17 county administered or implemented public assistance programs  
18 (e.g., Medi-Cal, Food Stamps, General Assistance), as part of  
19 the next periodic face-to-face or telephonic eligibility review  
20 or re-certification, whether the recipient was affected by the  
21 defendants' treatment in the AFDC program of mandatory payroll  
22 deductions as income during the period between January 1, 1982  
23 and August 31, 1982, and to preserve and retain the names and  
24 necessary information of all recipients who respond affirma-  
25 tively.

26 6. Failing to post in all county offices where public  
27 assistance programs are administered or implemented a conspic-  
28 uous notice which informs persons affected by the defendants'

1 treatment of mandatory payroll deductions as income during the  
2 period between January 1, 1982 and August 31, 1982 of this  
3 lawsuit and directs them to inform county case workers of their  
4 potential right as former and current AFDC recipients to retro-  
5 active benefits in this action. Such notice shall be prepared  
6 by the defendants in English and Spanish, and shall be distrib-  
7 uted to the counties as soon as reasonably practical.

8 IT IS FURTHER ORDERED that defendants Prod, McKinsey  
9 and Department of Social Services shall effectuate this order  
10 as follows:

11 A. By February 14, 1983, defendants shall transmit a  
12 copy of this Preliminary Injunction to each county welfare  
13 department together with instructions to immediately effectuate  
14 paragraphs 1 and 2 above.

15 B. By February 22, 1983, defendants shall transmit to  
16 the counties instructions regarding paragraphs 3, 4, 5, and 6  
17 above. These instructions shall include, if possible, copies  
18 of the stuffer and poster required by these paragraphs, as well  
19 as the questions to be asked of all public assistance applicants  
20 and public assistance recipients not currently receiving AFDC  
21 in face-to-face or telephonic interviews.

22 C. The instructions set forth in paragraphs A and B  
23 above shall instruct the counties to file a written statement  
24 by March 14, 1983 indicating what steps they have taken and  
25 plan to take to comply with the instructions. Defendants shall  
26 file these statements with the Court and serve them on plain-  
27 tiffs by March 21, 1983.

28 D. The instructions set forth in paragraphs A and B

1 above shall also instruct the counties to file a written  
2 statement by May 23, 1983, which indicates all steps taken to  
3 comply with paragraphs 1 through 6 above, together with a tally  
4 of the number of applicants and recipients identified through  
5 the procedures set forth in paragraphs 3 through 5 above.  
6 Defendants shall file these statements with the Court and serve  
7 them on plaintiffs by May 31, 1983.

8 Bond is waived.

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10  
11 FEB - 9 1983

12 Dated: \_\_\_\_\_

13  
14 **STUART R. POLLAK**

15 Judge of the Superior Court

16 Approved as to form:  
17 JOHN VAN DE KAMP, Attorney General  
18 of the State of California

19   
20 JOHN J. KLEE, JR.  
21 Deputy Attorney General

22 Attorneys for Defendants,  
23 Prod, McKinsey and  
24 Department of Social Services  
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