

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IRANIA SANCHEZ and EMILIO VEGA, on  
behalf of themselves and all others similarly  
situated; and MAKE THE ROAD BY  
WALKING, INC.,

Plaintiffs,

v.

JASON A. TURNER, as Administrator of the  
Human Resources Administration of the City of  
New York,

Defendant.

Index No.

**CLASS ACTION COMPLAINT  
JURY DEMAND**

**PRELIMINARY STATEMENT**

1. Plaintiffs -- applicants for and recipients of federal and state welfare benefits (“claimants”), and the advocacy organization Make the Road by Walking (“MRBW”) -- bring this civil rights action for preliminary and permanent injunctive relief to enjoin Jason A. Turner, Commissioner of the New York City Human Resources Administration (“the City”), to permit MRBW and other advocacy groups access to Income Support Centers and Job Centers (collectively “Welfare Centers”) for the purposes of providing information, assistance and representation with respect to welfare benefits. Welfare Centers are the City’s offices where people apply for food stamps, medical assistance, and/or cash assistance or transact business concerning open food stamps, medical assistance or cash assistance cases.

2. In the aftermath of welfare reform, the process of applying and recertifying for welfare benefits has become even longer, more cumbersome, more complex, and more intimidating. Without correct information or skilled assistance, claimants frequently cannot establish or maintain their eligibility. Consequently, claimants often suffer a long period of

brutal need, since most are in a financial crisis when they apply and welfare benefits provide only the barest of subsistence. MRBW, because of its expertise in welfare law and procedures, can provide claimants with otherwise unavailable information, assistance or representation.

3. The City has repeatedly refused MRBW advocates access to Welfare Centers, unless they are accompanied by a claimant, or has ejected MRBW advocates after they have lawfully gained access, thus depriving the individual plaintiffs and MRBW of their rights under the First and Fourteenth Amendments to the Constitution of the United States.

4. Specifically, the City has denied and is continuing to deny claimants and MRBW, a membership organization consisting of welfare applicants and recipients, their First Amendment rights to free speech, association, press and to petition the government for the redress of grievances. Additionally, the City has denied and is continuing to deny claimants their constitutional rights to due process and equal protection.

#### **JURISDICTION AND VENUE**

5. This action is authorized by 42 U.S.C. § 1983, as an action seeking redress for the deprivation of federal constitutional rights.

6. Jurisdiction is conferred upon the Court by 28 U.S.C. §§ 1331 and 1343(a)(3), which provide for jurisdiction in the district courts of civil actions arising under the Constitution and laws of the United States, and by 28 U.S.C. §1367, which provides for supplemental jurisdiction over state claims.

7. Venue properly lies in this district pursuant to 28 U.S.C. §1391(b).

#### **PARTIES**

CLAIMANT PLAINTIFFS

8. IRANIA SANCHEZ is a welfare recipient residing in Brooklyn, New York.

9. EMILIO VEGA is a welfare recipient residing in Brooklyn, New York.

ADVOCATE PLAINTIFF

10. MAKE THE ROAD BY WALKING, INC. (“MRBW”) is a New York not-for-profit corporation providing information, assistance and representation free of charge to claimants and other individuals residing in the Brooklyn communities of Bushwick, Bedford Stuyvesant, East New York and Brownsville, and in Ridgewood, Queens. MRBW is located at 301 Grove Street, Brooklyn, New York 11217.

11. MRBW asserts its own rights and the rights of its members to provide information, assistance and representation to claimants in Welfare Centers. MRBW has organizational standing because the City’s denial of Welfare Center access to advocates unaccompanied by individual claimants interferes with MRBW’s rights and those of its members to provide information, assistance and representation as described in paragraphs 46-63 below. MRBW also proceeds on behalf of those of its members who are current or future welfare claimants, to vindicate those members’ rights to receive information, assistance and representation from advocates in Welfare Centers.

DEFENDANT

12. Jason Turner is Administrator of the New York City Human Resources Administration (“HRA”) and the official responsible for administering Welfare Centers. His duties include ensuring that the City complies with federal and state welfare programs, managing the operation and administration of the City’s public assistance programs, and promulgating and

enforcing all HRA regulations. Of particular relevance in this action, defendant Turner is responsible for determining who may be permitted access to Welfare Centers.

## **FACTS**

### **A. The Welfare System**

13. The City's poorest residents often qualify for a wide array of government-funded programs intended to alleviate need. Many of these New Yorkers have been thrust into extreme poverty by the loss of employment, the death of a parent, abandonment by a spouse, or some similar catastrophe. Many have run through their savings; availed themselves of private charities, food pantries and soup kitchens; and exhausted the generosity of their friends, relatives and neighbors.

14. The agency responsible for addressing their needs is HRA, which is the local social services agency responsible for managing and administering public assistance benefit programs in the City. HRA administers many programs that provide subsistence benefits for needy families and individuals, including:

- (a) Family Assistance, which provides cash assistance to households with at least one minor child;
- (b) Safety Net Assistance, which provides cash assistance to childless adults;
- (c) Veteran Assistance, which provides cash assistance to households with a veteran;
- (d) Emergency Assistance for Adults, which provides emergency cash aid to aged, blind, or disabled individuals;
- (e) Food Stamps, which provides food coupons to households satisfying certain income limits; and
- (f) Medicaid, which provides payments for medical care to indigent individuals and families.

HRA also administers several other programs designed to address welfare claimants' emergency needs. In this Complaint all benefits described in this paragraph, unless specifically referred to individually, are collectively called "welfare" or "public assistance benefits."

15. HRA has long operated Income Support Centers to assess and reassess claimants' eligibility for public assistance benefits. In 1998, the City began converting Income Support Centers to "Job Centers." Whereas Income Support Centers send claimants to separate sites for assistance with their efforts to find work, Job Centers merge the benefits application function with the job search function. Additionally, the application process at Job Centers is considerably more rigorous.

16. The conversion of Income Support Centers to Job Centers was enjoined by the Honorable William Pauley, U.S.D.J., in Reynolds v. Giuliani, 35 F. Supp. 2d 331 (S.D.N.Y.), modified in part, 43 F. Supp. 2d 492 (S.D.N.Y. 1999). The Reynolds action is still pending.

17. Claimants go to Welfare Centers for many reasons, including to: (a) apply for benefits; (b) meet with caseworkers to discuss existing benefits; (c) discuss changes in benefits as a result of household composition and for other reasons; and (d) correct errors made by Welfare Center employees, including erroneous terminations, reductions and denials of benefits. Many claimants are threatened with eviction or termination of their utilities, are without food, or are facing all three circumstances. Some have already been evicted and are homeless. Many claimants need Medicaid to obtain treatment for medical conditions.

18. Some claimants are fortunate enough to find an advocate to assist or represent them. Other claimants who are unable to find a trained advocate to accompany them are compelled to bring relatives or friends for support. Parents are sometimes forced to bring young children to Welfare Centers because they lack access to child care. Some non-English-speaking

claimants are forced to bring someone to translate for them because they may not find Welfare Center personnel who speak their language.

19. Despite difficult life circumstances, claimants and those accompanying them commonly endure long waits at Welfare Centers prior to meeting with caseworkers. During this time, claimants wait, speak with other claimants, and try to figure out how to cope with whatever calamity brought them to the Welfare Center. Claimants and those accompanying them commonly seek advice from other claimants about public assistance benefits and how to enforce legal rights, even though other claimants do not necessarily have adequate or reliable information. In addition, claimants and those accompanying them sometimes enlist other claimants as translators to communicate with caseworkers or understand Welfare Center forms and instructions.

20. Claimants go to Welfare Centers without advocates for a variety of reasons. For example, some claimants simply trust the City to provide the benefits they need and to which they are legally entitled. Others cannot travel to advocates' offices, have tried and been unable to retain an advocate, or are unaware that advocates are available to help them. Still others have obtained limited assistance from advocates who lack the time to represent them in Welfare Centers, or lack the time to do so on every one of the claimants' visits to Welfare Centers.

**B. The City's Administration of the Welfare System**

21. The City's denial of Welfare Center access to advocates unnecessarily increases the risk of erroneous benefits denials and terminations.

22. The complexity of the welfare system makes it difficult for many claimants, and impossible for some, to navigate without the aid of an advocate. Claimants and caseworkers are often confused by the multiplicity of programs for which claimants may be eligible and by the changes resulting from the termination of the Aid to Families with Dependent Children program

and the implementation of new state and federal public assistance programs. Additionally, different programs have different eligibility criteria, in part because they are funded by different entities. For example, Family Assistance is funded by the federal, state and city governments, while Safety Net Assistance has no federal funding component.

23. Claimants seeking to establish initial eligibility for public assistance at Welfare Centers face numerous obstacles. If claimants fail to follow the application process correctly, the entire application is rejected, and they must begin the entire process over. In certain instances, the City will impose a sanction on claimants, which requires them to wait for a specific period of time before filing a new application. The City imposes sanctions without regard for whether the claimant intentionally or inadvertently failed to follow the intricate rules.

24. Reapplication is commonly required, notwithstanding that the application forms are long and detailed and that claimants must provide many documents and fulfill many requirements to successfully apply. After claimants are found to be eligible, they have to understand and comply with job search and work requirements. The City often provides instructions regarding documentation and procedures written only in English. In addition, the City often fails to provide adequate translation services, so many claimants cannot communicate with Welfare Center employees. Many claimants must make repeated trips to Welfare Centers to obtain their benefits, and without an advocate's assistance many of these efforts are unsuccessful.

25. In addition, Welfare Center employees often attempt to dissuade eligible claimants from applying for public assistance benefits and erroneously deny valid applications. Moreover, Welfare Center personnel often provide incorrect information to claimants regarding eligibility for benefits and ongoing cases. For example, Welfare Center personnel often tell claimants who are under 18 or lack a permanent address that they are ineligible for public

assistance.

26. Claimants dissatisfied with the manner in which their applications were handled will request an administrative hearing before a state administrative law judge. The administrative hearing typically is held four or five weeks after the date of the request, an additional two to three weeks lapse before the decision is rendered, and the City may not comply for an additional 30 days or more. During this entire period, the applicant must survive without ongoing public assistance.

27. Once claimants obtain public assistance they must wend their way through complex procedures to retain that assistance. For example, all claimants undergo periodic recertifications for public assistance eligibility. Cash assistance recipients must visit their Welfare Center several times each year to present documents and other verification of their ongoing eligibility for assistance. The process of recertification is similar to initially establishing eligibility.

28. If the City finds claimants not fully compliant with work requirements or recertification procedures, the claimants will lose their cash assistance, food stamps and Medicaid.

29. Claimants who are receiving benefits must request a fair hearing within 10 days of receiving notice of an adverse agency decision to receive the contested benefits pending a fair hearing decision. Many claimants are unaware of this rule.

30. Claimants must also apply at their Welfare Center for special needs allowances or grants resulting from changes in circumstances, such as a rent increase or an addition to the household. As with the initial application process, this application process is complex and requires recipients to submit documents to verify eligibility.

31. Claimants unable to comply with the complicated requirements for applications

for special needs allowances or change-in-circumstances grants are denied assistance. Their only remedy is to request an administrative hearing before a state administrative law judge. The applicant must then survive without the needed assistance until a fair hearing is held, a decision is issued, and the City complies with it.

32. Federal and state courts and federal administrative agencies have found that the City unlawfully denies public assistance benefits and places unlawful obstacles to application in the way of eligible claimants.

33. The City excludes welfare advocates from Welfare Centers because the information, assistance and representation that advocates seek to provide to claimants enables claimants to understand and better enforce their rights.

### **C. Facts Concerning the Named Claimant Plaintiffs**

34. The named claimant plaintiffs participate in this lawsuit because they have experienced and are experiencing or will experience problems at Welfare Centers that could be prevented with information, assistance, or representation from on-site advocates. Each is participating in this suit to require the City to allow advocates into Welfare Centers.

#### **Irania Sanchez**

35. For over seven months, Irania Sanchez could not get the City to reopen her case and provide the public assistance necessary for herself and for her 19-month-old daughter Gabriela's most basic health needs. As a result, Gabriela, who suffers from acute bronchial asthma and severe allergic rhinitis, was deprived of urgently needed medical assistance that she was entitled to receive.

36. Ms. Sanchez has spent many days at Welfare Centers trying to get her public assistance case reopened. When she has had the rare opportunity to speak with Welfare Center employees, they have seldom spoken Spanish. Ms. Sanchez speaks limited English, and Welfare

Center personnel have frequently denied her requests for an interpreter. Advocates at the Welfare Center could have informed her about her right to an interpreter and could have helped her enforce this right, thereby allowing her to communicate with Welfare Center personnel. On-site advocates could also have helped Ms. Sanchez obtain the benefits she was entitled to receive.

37. Until December 1999, Welfare Center personnel did not inform Ms. Sanchez that she was entitled to the electronic benefits transfer (“EBT”) card necessary to access her benefits. If there were advocates at the Welfare Center on the many occasions Ms. Sanchez tried to obtain her benefits, she could have learned that the EBT card was essential and how to obtain one.

38. Many of the Welfare Center employees with whom Ms. Sanchez has communicated have been rude and dismissive. Ms. Sanchez’s caseworker has cursed at her, shouted expletives about her Latino heritage, and screamed, “All you people do is come here for a handout!” Had advocates been allowed in the Centers earlier, they could have assisted Ms. Sanchez in filing a complaint that might have led to correction of this abusive behavior sooner.

39. On December 14, 2000, Ms. Sanchez finally met a MRBW advocate at the Welfare Center. The advocate helped her file a complaint about her caseworker’s abusive behavior, and informed her of her right to request a fair hearing. Had MRBW been allowed in the Welfare Center earlier, they could have given her this information earlier, and she could have requested a fair hearing much sooner.

40. Although Ms. Sanchez’s public assistance benefits were finally restored, she worries about encountering similar problems in the future. She is not aware of any advocate available to accompany her, without charge, to every Welfare Center appointment.

### **Emilio Vega**

41. Emilio Vega has gone without benefits, and consequently without food and medical attention, because he was unable to obtain adequate information about how the welfare system functions. For Mr. Vega, this situation raises serious health concerns because he has

Hodgkin's Disease. His doctors have ordered him to eat regularly and receive regular medical check-ups.

42. In July 1999, Mr. Vega applied for benefits and was told by a Center worker to go to an employment office. Mr. Vega did not understand this directive, but Center personnel discouraged him from asking questions so he did not ask for clarification. Instead, attempting to follow the instructions, he wrongly visited the City's Office of Employment Services. His application was subsequently denied for failure to go to the unemployment office. Had there been advocates at his Welfare Center, he could have received clarification of this requirement, complied with it, and obtained the benefits he so desperately needs.

43. Mr. Vega subsequently reapplied for benefits and was assigned a new caseworker and a new case number. Although his application was accepted in early September 1999, he could not obtain most of his benefits for over six weeks because his EBT card did not function. He made many trips to the Welfare Center and spent many hours waiting to ask his caseworker to reactivate his card. She repeatedly agreed to do so, but his card continued to malfunction. He tried repeatedly to request a fair hearing over the telephone, but the number was continuously busy.

44. Mr. Vega encountered MRBW advocates outside his Welfare Center in late September or early October 1999. They advised him to request a fair hearing in person, which he did. They also advised him to call the HRA District Office, which he did as well. He spoke with a woman at the District Office who said that she would try to get his benefits for him. Shortly thereafter, his caseworker provided him with cash assistance and food stamps. Had the MRBW advocates been allowed into his Welfare Center, Mr. Vega could have met them sooner, learned to request a fair hearing in person and to call the District Office, and he could have received his benefits much sooner.

45. Although Mr. Vega has now received most of the benefits due him, he is apprehensive about encountering similar problems in the future. He is not aware of any advocate

available to accompany him, without charge, to every Welfare Center appointment.

**D. Facts Concerning Plaintiff MRBW**

46. MRBW advocates seek to provide information, assistance and representation with respect to public assistance benefits to claimants in Welfare Centers. By doing this, they address the immediate needs of claimants who are otherwise vulnerable to the complexity of the welfare system and the City's misinformation and errors. MRBW advocates also help further one purpose of Welfare Centers, which is to ensure that claimants are provided with the benefits to which they are entitled. The provision of such aid, and ensuring that individuals can enforce their rights, are central to MRBW's mission to provide free representation with respect to public benefits and other issues and support for community organizing of the low-income and recent immigrant populations of the surrounding communities.

47. MRBW's staff includes lawyers and non-lawyers. MRBW's members are residents of Bushwick and the immediately adjacent neighborhoods who volunteer for four hours at MRBW or pay two dollars each month. The members elect MRBW's board of directors, are eligible to participate in educational opportunities, and are encouraged to be active in MRBW's membership committees. Eighty to ninety percent of MRBW's members receive at least one type of public assistance or are likely to receive such assistance in the future.

48. When MRBW advocates are permitted to enter Welfare Centers, they strive to provide claimants with whatever assistance is needed, including information, assistance and representation, as set forth below. MRBW does not have a sufficient number of advocates to accompany each claimant on each visit to a Welfare Center.

49. Much of the information, assistance and representation that MRBW advocates offer can be provided most effectively in Welfare Centers. For example, when Welfare Center employees refuse to accept applications or attempt to dissuade applicants from applying, MRBW advocates inform applicants that they have a right to apply. When MRBW advocates provide this information in the Center, claimants can file their applications that same day. In contrast,

when MRBW advocates meet a discouraged claimant at the MRBW office, the claimant may already have lost for a day or more subsistence benefits for which he or she is eligible.

50. When MRBW advocates are permitted in Welfare Centers, they inform claimants that they have a right to have Welfare Center employees assist them in gathering required documentation. When MRBW advocates can provide this advice on-site, the claimants can immediately enforce this right and obtain assistance from their caseworkers the same day.

51. When MRBW advocates are permitted in Welfare Centers, they help claimants fill out application or recertification forms. This type of assistance is most useful when provided within Welfare Centers because then the claimant can submit the form the same day.

52. When MRBW advocates are permitted in Welfare Centers, they answer questions that non-English-speaking claimants are unable to ask their English-speaking workers. This form of assistance is particularly valuable when provided in Welfare Centers because then MRBW advocates help claimants give their workers the information necessary to process their applications or keep their cases open.

53. MRBW also represents welfare claimants during meetings with caseworkers. This assistance can only be provided within Welfare Centers.

54. MRBW advocates use internal Welfare Center telephones to call caseworkers for non-English-speaking claimants at the Welfare Centers who cannot communicate with their caseworkers. This form of assistance can only be provided within Welfare Centers.

55. When MRBW advocates are allowed in Welfare Centers they can quickly encourage Welfare Center personnel to follow proper procedures so that erroneous decisions are not made. The advocates can also remain on site to address any remaining ambiguities or resistance by the Welfare Center employees. When the City prevents MRBW advocates from entering Welfare Centers, erroneous decisions may be made that can only be remedied at a later date by fair hearings, thereby delaying proper case handling for weeks.

56. When MRBW advocates are permitted in Welfare Centers they can observe and identify chronic or systemic problems and request that HRA employees rectify those problems. When they are excluded from the Welfare Centers and forced to talk to one claimant at a time in the MRBW office, advocates cannot act as promptly to remedy such problems for claimants.

57. Finally, although MRBW advocates can provide some services at the MRBW office, and can undertake to represent some claimants by accompanying them to Welfare Center encounters, some claimants do not know about those services and will not obtain the information, assistance or representation they need if MRBW is blocked from the Centers. Additionally, many claimants are unable to avail themselves of such services in any setting other than Welfare Centers because they are physically, emotionally or financially unable to locate and then travel to an off-site office. For example, many claimants are prevented from traveling to MRBW's office by child-care responsibilities or employment obligations. Other claimants cannot travel to MRBW's office because they are already burdened by coping with the crises caused by an erroneous denial of a claim for critically necessary cash or food benefits.

58. For those unaware of MRBW's services, or who learn of MRBW after leaving a Welfare Center, additional problems arise due to the passage of time before they learn of their rights, such as missed deadlines, which can result in the denial of an application or the termination of ongoing benefits.

59. One service that MRBW advocates provide from their office is requesting administrative hearings to challenge sanctions the City has imposed on claimants; the denial, suspension or termination of benefits; or other aspects of the City's actions concerning claimants' public assistance benefits. The filing of administrative hearing requests could occur earlier if MRBW were present in Welfare Centers.

60. MRBW advocates also represent claimants at administrative hearings with considerable success. In the first two years of its existence MRBW represented claimants at approximately 200 fair hearings. Of these, MRBW won approximately 195.

61. From their office, MRBW advocates write letters to Welfare Center officials and HRA administrators on behalf of claimants. For example, MRBW advocates write to welfare officials to help claimants request caseworkers who speak their languages. Submission of these letters could occur earlier and on behalf of a greater number of claimants if MRBW advocates were present in Welfare Centers.

62. In addition, from the MRBW office advocates assist claimants by filing complaints about chronic improper caseworker conduct, particularly where the misconduct prevents a claimant from obtaining benefits. MRBW also files complaints with HRA regarding persistent and system-wide problems with the provision of public assistance benefits to those in need. Therefore, MRBW's advocacy for individuals benefits all claimants of a particular Welfare Center.

63. In Welfare Centers, MRBW also distributes leaflets, which offer educational information about constitutional, statutory and regulatory rights relating to welfare benefits. Some leaflets also alert claimants to opportunities to participate in "Know Your Rights" training events conducted by MRBW, and in group advocacy efforts concerning public assistance benefits.

**E. Defendant HRA's Previous Policy of Allowing Advocates into Welfare Centers**

64. The City's present practices reflect a significant policy reversal. Previously, the City routinely permitted advocates and organizers access to Welfare Centers for the purposes sought in this action. For example, as described below, the City has had a long-standing practice of permitting groups access to Centers to distribute information and literature, to communicate directly with claimants, and to set up tables at which literature and information could be

dispensed. A regulation promulgated by the HRA in 1977, and described in New York City Unemployed & Welfare Council v. Brezenoff, 677 F.2d 232, 235 (2d Cir. 1982), provided as follows:

- (1) Organizations desiring to converse with clients and distribute literature will be stationed at the Community Client-Advisary's (sic) distribution table located in a designated waiting area at each Income Maintenance Center.
- (2) No more than two (2) representatives from a particular organization will be permitted at the distribution table.
- (3) The Agency's Office of Community Affairs . . . will schedule and control the use of the table to insure that all organizations desiring to distribute literature will have equal access in the center. Use of the table will depend on the demand from the various organizations.
- (4) Organizations will not be permitted to solicit (sic) membership fees or contributions from public assistance recipients in the center.

65. In the early 1980's a judge in the Southern District of New York, ruling in Unemployed & Welfare Council, struck down the provision restricting advocates to a "distribution table," finding that it violated the First Amendment by prohibiting advocates from moving freely about Welfare Center waiting rooms. The court ordered that the regulation be modified to provide:

that at least one member of the plaintiff's (sic) or any other organization should be permitted to move freely about that first reception room and speak with people who are sitting around waiting and may do so as long as the person to whom they are speaking is obviously a willing listener and not an unwilling listener, and that such circulating by the plaintiff's representative is permissible as long as it doesn't interfere with or disrupt the business that is being carried on in that waiting room.

Unemployed & Welfare Council, 677 F.2d at 235 n.4 (quoting slip op. at 4).

## **F. The City's Change in Policy Concerning Access to Welfare Centers**

66. Over the past few years, the City has barred advocates from Welfare Centers on a periodic basis.

67. An executive order issued by the City in 1995 gives the City broad discretion to determine whether to grant or deny access to Welfare Centers. Executive Order No. 639, in a section entitled “Use of Agency Premises,” states, “[T]he use of Agency premises shall be limited to the transaction of official business and such other activities as may be specifically authorized by the HRA/DSS Administrator/Commissioner.” Executive Order No. 639, at 11 (December 28, 1995). The City has substantial discretion to determine with whom to engage in “official business.”

68. A separate section of Executive Order No. 639, entitled “Distribution of Written Material,” similarly affords the City broad discretion to determine whether to allow distribution of written material within Welfare Centers. The order states:

Distribution of written material on Agency premises is limited to releases issued or sponsored by the Agency, releases of recognized staff organizations or clubs approved for distribution by the Office of Personnel Services and releases of certified labor organizations pursuant to collective bargaining agreements.

Id. at 12.

69. On April 17, 1998, MRBW co-director Oona Chatterjee and several MRBW advocates visited Welfare Center 62 to provide information, assistance and representation to claimants. The advocates entered the Welfare Center and began speaking with claimants. At all times, the advocates maintained an unobtrusive presence. For example, they spoke with individuals in quiet tones and spoke only to individuals who expressed an interest in speaking with them. After five to ten minutes, an official who identified himself as Security Supervisor

Cecil Decoteau asked the advocates to leave the premises. Mr. Decoteau explained that to enter the Center, one must “obtain authorization from the Center Director.” Pursuant to Mr. Decoteau’s instruction, the advocates left the Welfare Center.

70. Subsequently, also on April 17, 1998, several MRBW advocates entered Welfare Center 64 to provide information, assistance and representation to claimants within that Center. The advocates began to speak with claimants and maintained an unobtrusive presence. They spoke with claimants in quiet tones and spoke only to claimants who expressed an interest in speaking with them. After approximately twenty minutes, an official who identified herself as Inspector of Security Christie-Thomas asked the advocates to leave Center 64. She then escorted them to the Security Office within the Center. She stated that flyers could not be distributed within Welfare Centers without a special pass. Ms. Christie-Thomas then telephoned the Director of Welfare Center 64, Ms. Hampton-Reddy, and asked her to come to the Security Office. Ms. Hampton-Reddy arrived and advised MRBW that it was necessary “to obtain authorization from HRA’s Central Office at 250 Church Street” in order to enter Center 64. Ms. Hampton-Reddy also suggested that the advocates instead stand in front of the Welfare Center to speak with claimants. MRBW explained that it was too difficult to meet with individuals outside of the Centers and pointed out that it was raining. Ms. Hampton-Reddy then directed the advocates to leave the premises, which they did.

71. On April 17, 1998, MRBW sent a Freedom of Information Law (“FOIL”) request to the City’s counsel asking for the relevant rules and regulations concerning access to Welfare Centers. HRA responded in a letter dated May 1, 1998, enclosing a copy of Executive Order No. 639. A copy of this letter is attached hereto as Exhibit A. This executive order does not contain

any specific text regarding whether welfare advocates may enter Welfare Centers. See ¶ 64-65 above. By letter dated May 26, 1998, MRBW requested additional information to clarify whether particular criteria govern the City's decisionmaking as to who may be granted access to Welfare Centers.

72. On June 18, 1998, MRBW advocates met with Brenda Brown, the Director of Welfare Center 53, to request access to her Center. Ms. Brown had previously asked them to bring literature about MRBW to the meeting, which they did. After reviewing the materials, Ms. Brown advised them that to obtain permission to enter Center 53, MRBW would need to contact Jacqueline Flaum, Assistant Deputy Commissioner of the Family Independence Administration. Ms. Brown further stated that, before HRA's Central Office would approve any request to speak with or share materials with recipients at Welfare Centers, HRA would insist on looking at the materials. On June 18, 1998, MRBW sent a letter to Ms. Flaum requesting access to Welfare Centers and seeking information about any rules governing requests for such access.

73. On June 22, 1998, several representatives of MRBW again visited Welfare Center 62 to speak with public assistance recipients. Shortly after they arrived, a security guard escorted them to the office of Seth Gold, the Center Director. Mr. Gold asked for a copy of a questionnaire that MRBW had been completing with recipients, in which recipients could provide information about their experiences in the Center. He took the questionnaire into his office and approximately ten minutes later advised MRBW that they would need to obtain permission from the Central Office prior to entering any Welfare Centers.

74. On June 24, 1998, HRA wrote to MRBW stating that Executive Order No. 639 was "the only document" addressing the issue of advocates' access to Welfare Centers and that

“there is no general policy permitting access to Agency sites.” The letter further stated that the Executive Deputy Commissioner of HRA, Patricia M. Smith, “will review each request” for access to Welfare Centers. A copy of this letter is attached hereto as Exhibit B.

75. On June 25, 1998, MRBW wrote to Jack G. McKay, Acting General Counsel, HRA Office of Legal Affairs, requesting clarification of the policy and help in resolving difficulties obtaining authorization to enter Welfare Centers. The letter explained MRBW’s efforts to obtain permission to enter the Centers and the difficulty it encountered obtaining complete answers to its FOIL requests concerning the standards governing decisions on access. MRBW received no reply to this letter.

76. On July 10, 1998, HRA wrote to MRBW again in follow-up to its earlier response, reiterating that Executive Order No. 639 is “the only document” addressing the issue of access. The letter then stated, “[F]ollowing this procedure, if you would like to request access to particular job centers to distribute information, please submit your request in writing to Jason Turner, Commissioner/DSS Administrator.” A copy of this letter is attached hereto as Exhibit C.

77. On July 31, 1998, MRBW wrote to defendant Turner forwarding copies of all prior correspondence and renewing its request for access to Welfare Centers. MRBW received no reply to this letter.

78. On August 19, 1998, MRBW, along with the Brennan Center for Justice, the Legal Aid Society, the New York Legal Assistance Group and the Welfare Law Center, requested in writing that the City accord advocates reasonable access to enter Welfare Centers to

provide information, assistance and representation to claimants. A copy of this letter is attached hereto as Exhibit D.

79. On September 8, 1998, the City's counsel at that time, Judy Nathan, responded to the August 19, 1988 request for reasonable access, stating, "HRA declines to grant the access you seek in your letter, other than for the purpose of providing representation to a specific applicant or recipient, in accordance with 18 N.Y.C.R.R. § 351.1(d)." A copy of this letter is attached hereto as Exhibit E. This is the only document of which plaintiffs are currently aware that, as a matter of policy, explicitly denies advocates access to Welfare Centers.

80. Defendants interpret and enforce their policy in several, often contradictory ways. For example, over the past six months, advocates unaccompanied by individual claimants have been admitted to certain Welfare Centers and not others, and have been admitted into some Welfare Centers only sometimes.

81. The City permits advocates who accompany claimants to the Welfare Centers to provide information, assistance, and representation to those claimants within Welfare Centers.

82. In addition, the City allows Medicaid managed care companies and homelessness prevention organizations into the Welfare Centers to provide advice and assistance to welfare claimants regarding Medicaid and emergency shelter grants. The City therefore operates Welfare Centers as a limited public forum.

### **CLASS ALLEGATIONS**

83. The named claimant plaintiffs -- Irania Sanchez and Emilio Vega -- bring this action, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, on their own behalf and on behalf of a proposed class of all current and future welfare claimants.

84. The proposed class, which contains hundreds of thousands of members, is so numerous that joinder of all members is impracticable. The proposed class does not include MRBW, although some members of the proposed class are MRBW members.

85. There are numerous questions of law and fact common to the class as a whole. The central legal claim in this case, which all claimants share, is that the City unlawfully denies advocates reasonable access to Welfare Centers. All members of the proposed class share the legal claim that this exclusion violates plaintiffs' constitutional rights under the First and Fourteenth Amendments to the United States Constitution. Common questions of law and fact include: what is the particular nature of the City's practice regarding advocates' admission into Welfare Centers unaccompanied by individual claimants, and whether the City's exclusion of advocates violates constitutional law precedents.

86. Declaratory and injunctive relief are appropriate with respect to the class as a whole because the City acts on grounds generally applicable to the class.

87. The named plaintiffs' claims are typical of the claims of the class.

88. The named plaintiffs can fairly and adequately protect the interests of the class.

89. Counsel for the named plaintiffs and the proposed class have litigated numerous class actions. Plaintiffs know of no conflict of interest among members of the class.

## **CLAIMS FOR RELIEF**

### **First Claim for Relief**

90. The City's policy of denying Welfare Center access to advocates unaccompanied by individual claimants is void for vagueness in violation of plaintiffs' rights guaranteed by the

First Amendment to the United States Constitution and Article I, Section 8 of the New York State Constitution.

**Second Claim for Relief**

91. The City's exclusion from Welfare Centers of advocates unaccompanied by individual claimants constitutes viewpoint discrimination in violation of plaintiffs' rights under the First Amendment to the United States Constitution and Article I, Section 8 of the New York State Constitution.

**Third Claim for Relief**

92. The City's exclusion from Welfare Centers of advocates unaccompanied by individual claimants violates the plaintiffs' speech, press, petition and associational rights guaranteed by the First and Fourteenth Amendments to the United States Constitution and by Article I, Section 8 of the New York State Constitution.

**Fourth Claim for Relief**

93. The City's exclusion from Welfare Centers of advocates unaccompanied by individual claimants violates the plaintiff claimants' right to due process guaranteed by the Fourteenth Amendment to the United States Constitution and by Article I, Section 6 of the New York State Constitution.

**Fifth Claim for Relief**

94. The City's exclusion from Welfare Centers of advocates unaccompanied by individual claimants violates plaintiff claimants' right to equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution and by Article I, Section 11 of the New York State Constitution.

**REQUEST FOR RELIEF**

WHEREFORE, plaintiffs respectfully request that this Court enter judgment declaring unconstitutional, and preliminarily and permanently enjoining, the City's exclusion from Welfare Centers of advocates unaccompanied by individual claimants and providing the following specific relief:

- (a) directing the City to allow advocates into Welfare Centers to provide information, assistance and representation to claimants in connection with claims for initial and continuing public assistance benefits, even when unaccompanied by particular claimants;
- (b) directing the City to pay plaintiffs their costs, disbursements and reasonable attorneys' fees pursuant to 42 U.S.C. §1988; and
- (c) granting such other and further relief as this Court deems just, necessary and proper.

Dated: New York, New York  
March 6, 2000

Respectfully Submitted,

---

Laura K. Abel (LA 6831)  
Kimani Paul-Emile (KPE 8570)  
David S. Udell (DU 4762)  
BRENNAN CENTER FOR JUSTICE  
161 Avenue of the Americas, 5th Floor  
New York, New York 10013  
(212) 988-6737  
(212) 995-4550 (fax)

Laura Davis (LD 8226)  
NEW YORK LEGAL ASSISTANCE GROUP  
130 East 59th Street, 14th floor  
New York, New York 10022

(212) 750-0800 ext. 210  
(212) 750-0820 (fax)

Marc Cohan (MC 2612)  
WELFARE LAW CENTER  
275 Seventh Avenue, Suite 1205  
New York, New York 10001-6708  
(212) 633-6967  
(212) 633-6371 (fax)

Thomas McGanney (TM 8401)  
WHITE & CASE, LLP  
1155 Avenue of the Americas  
New York, New York 10036-2787  
(212) 819-8200  
(212) 354-8113 (fax)

Plaintiffs' Counsel

