



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

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

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

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

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

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

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

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

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

27          4.     Defendant must notify current food stamp recipients of the need to file  
28

1 recertification applications and process those applications and issue a decision prior to the  
2 end of the recertification period. 7 U.S.C. § 2020(e)(4); 7 C.F.R. § 273.14(a).

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

6 B. For Defendant's Affirmative Defenses:

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

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

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

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

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

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

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

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

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

19 **VII. Dispositive Motions:**

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

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

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

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

25 None.

1   **X.     Initial Disclosures:**

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

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

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

6   **XII.   Discovery:**

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

9   **XIII.  Proposed Deadlines:**

10          A.     Initial Disclosures:

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

12          B.     Addition of parties or amending Complaint:

13                April 25, 2004.

14          C.     Discovery:

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

22          D     Dispositive Motions:

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

24          E.     Disclosure of Expert Witnesses:

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

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

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

2           F.     Witness List:

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

4           G.     Settlement status reports:

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

6           H.     Filing of Pre-trial Statement:

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

8     //

9     **XIV. Evidentiary Hearings:**

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

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

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

14     **XVI. Jury Trial:**

15           There is no request for a jury trial.

16     **XVII. Prospects of Settlement:**

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

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

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

22     **IXX. Other issues:**

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

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

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

26           Respectfully submitted this 1<sup>st</sup> day of December 2004.

27

28

1 OFFICE OF THE ATTORNEY GENERAL

WELFARE LAW CENTER, INC.  
ORGANIZATION

2  
3  
4 By \_\_\_\_\_  
5 Name  
6 Title  
7 Organization  
8 Address  
City, State ZIP  
Attorneys for Defendant

By  
Name  
Organization  
Address  
City, State ZIP  
Attorneys for Plaintiffs

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

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

13 COPY of the foregoing mailed this  
14 1<sup>st</sup> day of December 2004, to:

15 Name  
16 Title  
17 Organization  
Address  
City, State ZIP  
Attorney for Defendant