

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

EBONY BOSTON, M.T. and PAMELA  
NELSON, on behalf of themselves and dependant  
minors in their care and all others similarly  
situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK and DAVID A.  
HANSELL, as Commissioner of the New York  
State Office of Temporary and Disability  
Assistance,

Defendants.

**VERIFIED CLASS ACTION  
COMPLAINT**

**PRELIMINARY STATEMENT**

Plaintiffs homeless families with children, on behalf of themselves and all others similarly situated, bring this Complaint for declaratory and injunctive relief to challenge the acts and omissions of the City of New York ("City Defendant") and of David A. Hansell, as Commissioner of the New York State Office of Temporary and Disability Assistance ("State Defendant"), with respect to the provision of lawful shelter, assistance and services to homeless children and their families, and hereby allege as follows:

**THE PARTIES, JURISDICTION AND VENUE**

1. The Plaintiffs are homeless families with children in New York City.

- a. Plaintiff Ebony Boston and her five-year-old son are homeless and seeking shelter in New York City, and they have been placed temporarily by the defendants at the Jamaica Family Shelter in Queens, New York.
- b. Plaintiff M.T. and her two children, aged seven and ten, are homeless and seeking shelter in New York City, and they have been placed temporarily by the defendants at a cluster site shelter in New York City.
- c. Plaintiff Pamela Nelson, her husband, her fourteen-year-old son, and her eleven-year-old daughter are homeless and seeking shelter in New York City, and they have been placed temporarily by the defendants at the Theresa's Haven shelter in the Bronx, New York.

2. Defendant City of New York is legally obligated to provide lawful shelter, assistance and services to homeless children and their families in New York City.

3. Defendant Commissioner of the New York State Office of Temporary and Disability Assistance is legally obligated to provide lawful shelter, assistance and services to homeless children and their families in New York City and to supervise and enforce compliance by the City of New York social service district with applicable law governing the provision of shelter, assistance and services to homeless children and their families in New York City.

4. Defendant City of New York has its main offices in New York County, Defendant New York State Office of Temporary and Disability Assistance maintains offices in New York County, and the underlying acts and omissions giving rise to this Complaint occurred in New York County.

5. Accordingly, this Court has jurisdiction over the Defendants and venue in New York County is proper.

### **THE FACTUAL CIRCUMSTANCES OF THE NAMED PLAINTIFFS**

#### **Plaintiff Ebony Boston**

6. Plaintiff Ebony Boston and her five-year-old son are homeless and seeking shelter in New York City.

7. Ms. Boston and her son suffer from multiple medical problems. Ms. Boston is currently scheduled to undergo a medical procedure on Thursday, September 18, 2008.

8. Ms. Boston and her son became homeless after Ms. Boston's mother was evicted from an apartment where Ms. Boston and her son also had been living. Ms. Boston's mother suffers from severe depression that hindered her ability to retain her apartment; she now lives in a single rented room.

9. Following her mother's eviction, Ms. Boston sought shelter from the City Defendant. Ms. Boston notified the City of her mother's eviction. Ms. Boston also notified the City that she could not live with her estranged father because he would not allow her to live with him in his Section 8 apartment and because he is an alcoholic. As a child, the City Defendant removed Ms. Boston from her parents' home due to her parents' substance abuse.

10. The City Defendant nonetheless determined that Ms. Boston and her son were ineligible for shelter because allegedly they could live with Ms. Boston's estranged father. Ms. Boston had told the City Defendant that her estranged father would not let her stay with him because he was afraid that his Section 8 landlord would not renew his lease.

11. Ms. Boston challenged the City Defendant's determination of her ineligibility for shelter at a State administrative hearing. Ms. Boston notified the State Defendant of her estranged father's alcoholism and his unwillingness to house her and her son because of his concerns that he would be violating his Section 8 lease. The State Defendant upheld the City Defendant's shelter denial in a decision that was issued 20 days after the hearing was requested.

12. With no place else to go, Ms. Boston and her five-year-old son spent two nights without any shelter. Ms. Boston's estranged father then relented and allowed Ms. Boston and her son to stay at his apartment under inadequate circumstances.

13. Because of a medical problem that Ms. Boston's five-year-old son developed at her estranged father's apartment, her son's doctor advised against continued occupancy with Ms. Boston's father. Moreover, Ms. Boston's estranged father has received a Section 8 renewal lease from his landlord which requires him to disclose the occupants in the apartment. Mr. Boston feared that the lease would not be renewed if he mentioned others living with him, and he informed Ms. Boston that he will not permit Ms. Boston and her son to continue to stay with him and lie on the landlord's disclosure form. Accordingly, her father told Ms. Boston that she and her son had to leave.

14. Ms. Boston again sought shelter from the City Defendant on Sunday, September 14, 2008. The City Defendant has now placed Ms. Boston and her son temporarily at the Jamaica Shelter for a period of up to 10 days, while her case is being reviewed. Ms. Boston's five-year-old son attends school in Staten Island, and now Ms. Boston has to wake him up at 5 AM in order to get to school from their shelter placement in Queens.

15. Based on the Defendants' acts and omissions, Ms. Boston and her five-year-old son are at risk of unlawful shelter denials, placements in shelter that do not meet the

requirements of law, disruption of their public benefits because of their lack of a permanent address, and denials of shelter and/or shelter terminations in contravention of the requirements of law. The State Defendant's administrative hearings do not offer meaningful redress of these unlawful acts and omissions, substantively or in a timely manner.

**Plaintiff M.T.**

16. Plaintiff M.T. and her two children, ages seven and ten, are homeless and seeking shelter in New York City.

17. Ms. M.T. is a victim of domestic violence. Ms. M.T. and her two children fled the residence of Ms. M.T.'s partner after he assaulted M.T., causing her injuries for which she required medical treatment. Ms. M.T.'s partner also destroyed Ms. M.T.'s identification documents.

18. The day after she was attacked, Ms. M.T. went to PATH, the City Defendant's shelter application intake facility, to apply for shelter for her family, but was unable to do so.

19. That night Ms. M.T. and her children slept on the floor of Ms. M.T.'s mother's one-bedroom apartment. At the time, the apartment was already occupied by three additional individuals. Ms. M.T.'s mother also keeps a bird and a cat in the apartment, both of which have been previously known to aggravate Ms. M.T.'s daughter's asthma; in the past, exposure to both resulted in the hospitalization of Ms. M.T.'s daughter.

20. Ms. M.T.'s mother provided Ms. M.T. with identification documents, which allowed Ms. M.T. to apply for shelter the following day. On the day of her application for shelter, Ms. M.T. was referred by the City Defendant to a social worker specializing in domestic violence issues. However, an appointment was scheduled for two days later.

21. The City Defendant has placed M.T. and her children temporarily in a “cluster site” shelter. Cluster site shelters lack adequate conditions.

22. Based on the Defendants’ acts and omissions, Ms. M.T. and her children are at risk of unlawful shelter denials, placements in shelter that do not meet the requirements of law, disruption of their public benefits because of their lack of a permanent address, and denials of shelter and/or shelter terminations in contravention of the requirements of law. The State Defendant’s administrative hearings do not offer meaningful redress of these unlawful acts and omissions, substantively or in a timely manner.

**Plaintiff Pamela Nelson**

23. Plaintiff Pamela Nelson, her husband and her two children – a fourteen-year-old son and an eleven-year-old daughter – are homeless. Ms. Nelson and her son, who suffers from cerebral palsy, are disabled and both children suffer from asthma.

24. Ms. Nelson and her family sought shelter at the City Defendant’s PATH intake center on September 12, 2008, and the City Defendant has placed Ms. Nelson and her family temporarily in a Department of Homeless Services shelter at Theresa’s Haven in the Bronx.

25. Ms. Nelson and her family became homeless several years ago after their landlord sold their home. Thereafter, the City Defendant provided them with shelter and the family relocated to an apartment in the Bronx. That apartment was in poor condition, and the building it was in had serious structural problems which required repeated intervention by the City Defendant's Department of Buildings and the City Defendant’s Fire Department. After April 2008, the landlord stopped providing water to the apartment. In May 2008, the landlord wrote to Ms. Nelson and offered to assist Ms. Nelson and her family in relocating. Ultimately, HPD commenced litigation against the landlord due to these violations.

26. Ms. Nelson and her family accepted another apartment in the Bronx, without seeing it first. The City Defendant approved the move, and the prior landlord paid for them to move into the new apartment in July 2008. This apartment also was in poor condition. Within one month of Ms. Nelson and her family relocating to this apartment, the City Defendant's Department of Housing Preservation and Development ("HPD") cited the apartment for numerous violations, including two "immediately hazardous" violations requiring correction within 24 hours. HPD also cited the building's structure for an "immediately hazardous" violation.

27. The Nelson family became ill as a result of the conditions in the apartment and could no longer stay there. Ms. Nelson and her family therefore moved into a hotel, where they stayed for several nights. However, on September 12, 2008, Ms. Nelson and her family ran out of money and had no choice but to apply for shelter.

28. Based on the Defendants' acts and omissions, Ms. Nelson and her family are at risk of unlawful shelter denials, placements in shelter that do not meet the requirements of law, disruption of their public benefits because of their lack of a permanent address, and denials of shelter and/or shelter terminations in contravention of the requirements of law. The State Defendant's administrative hearings do not offer meaningful redress of these unlawful acts and omissions, substantively or in a timely manner.

#### **CLASS-WIDE FACTUAL CIRCUMSTANCES**

29. The Defendants' acts and omissions frequently result in the denial of shelter to homeless children and their families who have no alternative housing, notwithstanding the requirements of law.

30. The Defendants' acts and omissions frequently result in the provision of shelter to homeless children and their families that is not safe, sanitary and decent as required by law.

31. The Defendants' acts and omissions frequently result in shelter placements for homeless children and their families that are not made in a timely and appropriate manner as required by law.

32. The Defendants' acts and omissions frequently result in shelter ineligibility determinations for homeless children and their families that do not meet the requirements of law.

33. The Defendants' acts and omissions frequently result in the lack of written notice of shelter eligibility or ineligibility for homeless children and their families, notwithstanding the requirements of law.

34. The Defendants' acts and omissions frequently result in denials of shelter for re-applicant families with children that are not in accordance with law.

35. The Defendants' acts and omissions frequently result in terminations of shelter for homeless children and their families that are not in accordance with law.

36. The Defendants' acts and omissions frequently result in interruptions in receipt of public benefits, including cash assistance, food stamp benefits, and medical assistance, for homeless children and their families based on their lack of a permanent address, notwithstanding the requirements of law.

37. The acts and omissions of the State Defendant frequently result in failures to provide expedited State administrative hearings at which families with children seeking shelter in

New York City can challenge shelter denials in a timely manner, notwithstanding the requirements of law.

38. The acts and omissions of the State Defendant frequently result in State administrative hearing decisions for families with children seeking shelter in New York City that do not apply the requirements of law and are substantively and/or procedurally unfair.

39. The acts and omissions of the State Defendant frequently result in failures to supervise and enforce compliance by the City Defendant with the requirements of law governing the provision of shelter, assistance and services to homeless children and their families in New York City.

#### **CLASS ACTION ALLEGATIONS**

40. Pursuant to Article 9 of the New York Civil Practice Law and Rules ("C.P.L.R."), certification of a class of homeless families with children in New York City is appropriate because: (a) there are common questions of law and fact that predominate; (b) there are currently some 9,000 families in the municipal shelter system alone and the class is too numerous to join each individual family with children; and (c) the named families with children are typical of the homeless families with children in New York City and will therefore be adequate and appropriate class representatives. Counsel for the Plaintiffs is experienced in representing clients in complex class action litigation, including such litigation on behalf of homeless families with children in New York City, and will therefore be able to provide adequate and appropriate representation to the class in this litigation.

### **FIRST CLAIM FOR RELIEF**

41. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 40 above.

42. The Defendants' acts and omissions, which frequently result in the denial of shelter to homeless children and their families who have no alternate housing, violate the rights of the Plaintiffs under the law.

### **SECOND CLAIM FOR RELIEF**

43. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 42 above.

44. The Defendants' acts and omissions, which frequently result in the provision of shelter to homeless children and their families that is not safe, sanitary and decent, violate the rights of the Plaintiffs under the law.

### **THIRD CLAIM FOR RELIEF**

45. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 44 above.

46. The Defendants' acts and omissions, which frequently result in shelter placements for homeless children and their families that are not made in a timely and appropriate manner, violate the rights of the Plaintiffs under the law.

### **FOURTH CLAIM FOR RELIEF**

47. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 46 above.

48. The Defendants' acts and omissions, which frequently result in erroneous shelter ineligibility determinations for homeless children and their families, violate the rights of the Plaintiffs under the law.

#### **FIFTH CLAIM FOR RELIEF**

49. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 48 above.

50. The Defendants' acts and omissions, which frequently result in the lack of written notice of shelter eligibility or ineligibility for homeless children and their families, violate the rights of the Plaintiffs under the law.

#### **SIXTH CLAIM FOR RELIEF**

51. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 50 above.

52. The Defendants' acts and omissions, which frequently result in erroneous denials of shelter for re-applicant families with children, violate the rights of the Plaintiffs under the law.

#### **SEVENTH CLAIM FOR RELIEF**

53. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 52 above.

54. The Defendants' acts and omissions, which frequently result in erroneous terminations of shelter for homeless children and their families, violate the rights of the Plaintiffs under the law.

### **EIGHTH CLAIM FOR RELIEF**

55. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 54 above.

56. The Defendants' acts and omissions, which frequently result in interruptions in receipt of public benefits – including cash assistance, food stamp benefits, and medical assistance – for homeless children and their families, based on their lack of a permanent address, violate the rights of the Plaintiffs under the law.

### **NINTH CLAIM FOR RELIEF**

57. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 56 above.

58. The acts and omissions of the State Defendant, which frequently result in failures to provide expedited State administrative hearings at which families with children seeking shelter in New York City can challenge shelter denials, violate the rights of the Plaintiffs under the law.

### **TENTH CLAIM FOR RELIEF**

59. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 58 above.

60. The acts and omissions of the State Defendant, which frequently result in erroneous State administrative hearing decisions for families with children seeking shelter in New York City, because of its failure to apply the law and/or apply the required procedures, violate the rights of the Plaintiffs under the law.

### **ELEVENTH CLAIM FOR RELIEF**

61. The Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 60 above.

62. The acts and omissions of the State Defendant, which frequently result in failures to supervise and enforce compliance by the City Defendant with the law governing the provision of shelter, assistance and services to homeless children and their families in New York City, violate the rights of the Plaintiffs under the law.

### **REQUEST FOR RELIEF**

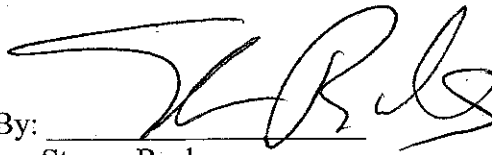
WHEREFORE, Plaintiff homeless families with children respectfully request that this Court enter a final judgment:

- a. certifying a class of all homeless families with children in New York City;
- b. enjoining the defendants from denying shelter to homeless children and their families who have no alternative housing;
- c. enjoining the defendants from providing shelter to homeless children and their families that is not safe, sanitary and decent as required by law;
- d. enjoining defendants to make shelter placements for homeless children and their families in a timely and appropriate manner as required by law;
- e. enjoining the defendants from making eligibility determinations for homeless children and their families that do not meet the requirements of law;

- f. enjoining defendants to provide written notice of shelter eligibility or ineligibility for homeless children and their families;
- g. enjoining the defendants from denying shelter to re-applicant families with children in contravention of law;
- h. enjoining the defendants from terminating shelter for homeless children and their families in contravention of law;
- i. enjoining the defendants from interrupting receipt of public benefits, including cash assistance, food stamp benefits, and medical assistance, for homeless children and their families based on their lack of a permanent address, in contravention of law;
- j. enjoining the State Defendant to provide expedited State administrative hearings at which families with children seeking shelter in New York City can challenge shelter denials;
- k. enjoining the State Defendant from issuing State administrative hearing decisions for families with children seeking shelter in New York City that do not apply the substantive and procedural requirements of law;
- l. enjoining the State Defendant to supervise and enforce compliance by the City Defendant with the requirements of law governing the provision of shelter, assistance and services to homeless children and their families in New York City; and
- m. granting such other or further relief as is appropriate.

Dated: September 17, 2008

THE LEGAL AID SOCIETY

By: 

Steven Banks  
Attorney-in-Chief

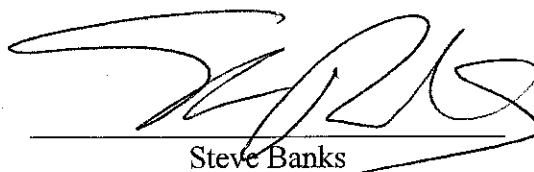
Homeless Rights Project  
Judith Goldiner, Supervising Attorney  
Jane Sujen Bock, of counsel  
Joshua Goldfein, of counsel  
Amy Mulzer, of counsel  
199 Water Street  
New York, NY 10038  
Tel: (212) (577-3277)  
e-mail: sbanks@legal-aid.org

**VERIFICATION**

STATE OF NEW YORK,     )  
                                      ) ss.:  
COUNTY OF NEW YORK, )

I, Steven Banks, an attorney admitted to practice in the state of New York, being duly sworn, deposes and says:

1. I am the Attorney-in-Chief of the Legal Aid Society, attorneys for Plaintiffs herein.
2. I have read the foregoing Complaint.
3. The contents thereof are true upon information and belief, found after review of documents furnished to me by plaintiffs and others and interviews with plaintiffs conducted by members of the Legal Aid Society's staff.
4. The reason why this verification is not made by plaintiffs is that plaintiffs are not resident of, nor presently found within, New York County.

  
Steve Banks

Sworn to before me this \_\_ day of September, 2008.

\_\_\_\_\_  
Notary Public

Index No. /

**SUPREME COURT OF THE STATE OF NEW YORK**  
**COUNTY OF NEW YORK**

EBONY BOSTON, M.T. and PAMELA NELSON, on behalf of  
themselves and dependant minors in their care and all others  
similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK and DAVID A. HANSELL, as  
Commissioner of the New York State Office of Temporary and  
Disability Assistance,

Defendants.

~~VERIFIED CLASS ACTION COMPLAINT~~



THE LEGAL AID SOCIETY

*Attorneys for Plaintiffs*

199 Water Street

New York, NY 10038

(212) 577-3277