

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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ROBERT CALLAHAN, CLAYTON W. FOX,  
THOMAS DAMIAN ROIG, JAMES HAYES,  
JAMES SPELLMAN AND PAUL E. TOOLE,  
on their own behalves and on behalf  
of all others similarly situated,

Plaintiffs,

-against-

HUGH L. CAREY, as Governor of the  
State of New York, BARBARA BLUM, as Com-  
missioner of the New York State Department  
of Social Services, EDWARD I. KOCH, as  
Mayor of the City of New York, STANLEY  
BREZENOFF, as Commissioner of the New  
York City Human Resources Administration,  
and CALVIN REID, as Director of the  
Shelter Care Center for Men,

Defendants.

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Index No.:  
72581/79

AMENDED  
COMPLAINT

INTRODUCTORY STATEMENT

1. This class action seeks damages, as well as declaratory and injunctive relief to redress the deprivation of services and support due the named Plaintiffs, and the class they represent -- homeless men without income or property who live in New York City and who are unable to provide for themselves -- under the United States Constitution, the New York Constitution, the New York Social Services Law, the

New York City Charter, the New York City Administrative Code and Titles 14 and 18 of the New York Code of Rules and Regulations.

There are approximately 10,000 homeless men living in New York City, the overwhelming majority of whom are incapacitated due to physical and mental disabilities, often exacerbated by alcohol and drug addictions. At the commencement of this action, the only public facility in New York City providing regular services to homeless men was the Shelter Care Center for Men (the "Men's Shelter"), located on Manhattan's lower eastside. On December 17, 1979, Defendant BREZENOFF opened an emergency shelter in the Keener Building on Ward's Island, located in the East River. This building, which has a capacity to shelter 180 men, presently is scheduled to be closed on March 31, 1980. In addition, Defendants provide shelter to approximately 800 homeless men at Camp La Guardia which is located in Chester, New York, a two hour bus ride from New York City.

The only service which the Men's Shelter makes available to all homeless men on a consistent basis is three meals a day. In addition, the Men's Shelter dispenses anywhere from 750 to 925 lodging vouchers, redeemable in one of several dangerous and unhealthy Bowery lodging houses. During winter, 1,200 to 2,000 men seek lodging from the

Men's Shelter each night. When the Men's Shelter exhausts its supply of lodging vouchers, the remaining homeless men are permitted to sleep with several hundred other men on a concrete floor in the "big room" at the Men's Shelter or, during the winter of 1979-1980, are bussed to Ward's Island. Once the "big room" is filled to capacity, the remaining men are turned back into the street.

During the winter of 1979-80, any man who declines to go to Ward's Island after the supply of vouchers for lodging houses has been exhausted is turned into the street, regardless of the weather. The "big room" is opened only after midnight. Up to 100 men then spend the night on the floor and in plastic chairs in the "big room."

Most of the homeless men living in New York are physically and/or mentally disabled. As a result, they are particularly vulnerable to, and fearful of, violence. The violence and brutality associated with the Men's Shelter and the Bowery lodging houses used by Defendants to shelter some homeless men is well-known to New York's homeless men, many of whom have experienced such violence. Because of this long-standing and well-known pattern of violence, many homeless men are afraid to seek assistance at the Men's Shelter. A large number of New York's homeless men, fearful of conditions at the Men's Shelter, live in the streets, in

subways, in doorways, on ventilation grates and in steam tunnels.

Although the Men's Shelter is the only public social service facility for homeless men in New York City, it is understaffed and unable to provide the hygienic, rehabilitative and other social services which Defendants are required by law to provide Plaintiffs. Further, due to severe understaffing at the Men's Shelter, Defendants fail to provide sufficient security in and around the Men's Shelter to make it a reasonably safe environment for members of Plaintiffs' class who do seek assistance at the Men's Shelter. No security is provided by Defendants in Bowery lodging houses.

No services are provided men in the Keener Building on Ward's Island where the men live virtually under house arrest. No man is allowed to leave the Keener Building for any reason except to leave Ward's Island. Then a uniformed guard places a man on a bus leaving Ward's Island. Further, some men are denied the fifty cents needed to leave Ward's Island and are thereby coercively detained in the Keener Building.

#### PLAINTIFFS

2. Plaintiff CALLAHAN is a 54-year old resident of New York City residing at the Delevan Hotel located at

143 Bowery. At times, because conditions at the Delevan are so dangerous and inhuman, Plaintiff CALLAHAN will sleep in the city streets. He is dependent on the Men's Shelter for lodging. He has virtually no income or property and is unable to provide for himself.

3. Plaintiff FOX is a 46-year old resident of New York City residing at the Kenton Hotel located at 313-315 Bowery. He is dependent on the Men's Shelter for lodging and food. He has virtually no income or property and is unable to provide for himself.

4. Plaintiff ROIG is a 30-year old resident of New York City residing at the Comet Hotel located at 106 Bowery. He is dependent on the Men's Shelter for lodging and food. He has virtually no income or property and is unable to provide for himself.

5. Plaintiff HAYES is a 37-year old homeless resident of New York City. He has virtually no income or property and is unable to provide for himself. He sleeps in various doorways, city streets and steam tunnels.

6. Plaintiff SPELLMAN is a 59-year old resident of New York City. He has virtually no income or property and is unable to provide for himself. He sleeps in various doorways, streets, and other public places in New York City.

7. Plaintiff TOOLE is a 60-year old resident of New York City. He has virtually no income or property and

is unable to provide for himself. He sleeps in various outdoor public places in New York City, relying on cardboard boxes to protect himself from the winter cold.

DEFENDANTS

8. Defendant HUGH L. CAREY is the duly elected Governor of the State of New York and is the chief executive officer for the State, responsible for the faithful execution of the law.

9. Defendant BARBARA BLUM is the duly appointed Commissioner of the New York State Department of Social Services and is responsible for, among other things, determining the policies and principles upon which public assistance, services and care shall be provided within New York by the State itself and by local governmental units. As such, she is responsible for licensing the Men's Shelter.

10. Defendant EDWARD I. KOCH is the duly elected Mayor of the City of New York and is the chief executive officer of the City.

11. Defendant STANLEY BREZENOFF is the duly appointed Commissioner of the New York City Department of Social Services/Administrator of the New York City Human Resources Administration and is responsible for the administration of the assistance and care of the poor for which New York City is responsible.

12. Defendant CALVIN REID is the duly appointed Director of the Men's Shelter and is responsible for providing shelter, food, lodging and other required social services ("shelter services") needed by persons applying for such services at the Men's Shelter.

#### CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this action as a class action under Article 9 of the New York Civil Practice Law and Rules ("CPLR"). Defendants have acted on grounds generally applicable to the class and the sub-classes making damages, declaratory and injunctive relief appropriate with respect to the class and the sub-classes.

14. Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN and TOOLE represent a class of homeless men without income or property who live in New York City and who are unable to provide for themselves. Plaintiffs CALLAHAN, FOX and ROIG represent a sub-class of those homeless men who are dependent on the Men's Shelter for shelter services. Plaintiffs HAYES, SPELLMAN and TOOLE represent a sub-class of those homeless men who require shelter services but do not apply for such services at the Men's Shelter because of the inhuman conditions at the Men's Shelter and the violence in and around the Men's Shelter and other lodging facilities used by Defendants.

15. The number of homeless persons in the class and the sub-classes is so numerous as to make joinder impracticable. On information and belief, Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN and TOOLE represent a class consisting of approximately 10,000 persons. Plaintiffs CALLAHAN, FOX and ROIG represent a sub-class consisting of approximately 2,000 persons. Plaintiffs HAYES, SPELLMAN and TOOLE represent a class consisting of approximately 8,000 persons.

16. The claims of the representative parties are typical of the claims of the class and the sub-classes.

17. The representative parties will fairly and adequately protect the interests of the class and the sub-classes. The representative parties know of no conflict of interest among members of the class or between the sub-classes with regard to the issues in this case.

18. There are questions of law and fact common to all members of the class and the sub-classes in that Defendants have systematically failed to make available to homeless men the minimal level of shelter services required under the United States Constitution, the New York Constitution, the New York Social Services Law, the New York City Charter, the New York City Administrative Code and Title 18 of the New York Codes of Rules and Regulations.



19. The questions of law and fact common to the members of the class and the sub-classes predominate over any questions affecting only individual members. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

CONSTITUTIONAL, STATUTORY AND REGULATORY FRAMEWORK

20. Pursuant to Article XVII, § 1 of the New York Constitution, §§ 131(1) and 131-a of the New York Social Services Law and Title 18 of the New York Code of Rules and Regulations, it is the responsibility of Defendants CAREY, BLUM, KOCH, BREZENOFF and REID to provide adequate aid, care and support to the needy in New York City. Such aid, care and support is to be administered in such a way as to restore such persons to a condition of self-care or self-support.

21. Pursuant to § 62(1) of the New York Social Services Law, it is the responsibility of Defendants KOCH, BREZENOFF and REID to provide adequate assistance and care to any person who resides or is found in New York City, who is in need of public assistance and care and who is unable to provide for himself.

22. Pursuant to § 604.1.0(b) of the New York City Administrative Code, it is the responsibility of Defendants KOCH, BREZENOFF and REID to provide to any applicants for

shelter in New York City plain and wholesome food, lodging and basic hygienic services.

23. Pursuant to § 131-1 of the New York Social Services Law and Title 18 of the New York Code of Rules and Regulations, it is the responsibility of Defendants CAREY, BLUM, KOCH, BREZENOFF and REID to provide protective services to adults who are unable to protect their own interests.

24. Pursuant to the Fourteenth Amendment to the United States Constitution, Article 1, § 6 of the New York Constitution and § 351.1(b) of Title 18 of the New York Code of Rules and Regulations, it is the responsibility of Defendants CAREY, BLUM, KOCH, BREZENOFF and REID to provide applicants for and recipients of public assistance with information concerning programs of public assistance and the benefits available under such programs.

25. Pursuant to the Fourteenth Amendment to the United States Constitution and Article 1, § 11 of the New York Constitution all persons are entitled to the equal protection of the law.

26. To discharge their respective responsibilities to Plaintiffs under the United States Constitution, the New York Constitution, the New York Social Services Law, the New York City Charter, the New York City Administrative Code and the New York Code of Rules and Regulations, Defendants CAREY, BLUM, KOCH, BREZENOFF and REID operate or

participate in operating -- either directly or indirectly -- the Men's Shelter located at 8 East Third Street in Manhattan. The Men's Shelter provides three meals a day, a limited and inadequate number of vouchers redeemable for a night's stay at dangerous and unhealthy Bowery lodging houses and a limited and inadequate range of hygienic, rehabilitative and other social services.

27. There is no public facility in New York City to provide for the care or support of homeless men except the Men's Shelter (and its temporary satellite on Ward's Island). The Men's Shelter is funded entirely by New York State, New York City and money and labor taken from the homeless men themselves.

28. Each of the Defendants have facilities involved in this action in New York County.

#### STATEMENT OF THE CLAIMS

##### A. Shortage of Lodging Accommodations

29. Plaintiff CALLAHAN is a homeless person dependent on the Men's Shelter for lodging. He is currently sleeping at the Delevan Hotel by virtue of a lodging voucher obtained from Defendant REID at the Men's Shelter. At times Plaintiff CALLAHAN has not applied for a lodging voucher because conditions at the Delevan Hotel and other hotels

to which he has been sent by Defendant REID are so filthy, unhealthy and dangerous. Plaintiff CALLAHAN has lived on or around the Bowery since approximately 1975.

30. Plaintiff FOX is a homeless person dependent on the Men's Shelter for lodging and food. He is currently sleeping at the Kenton Hotel by virtue of a lodging voucher obtained from Defendant REID at the Men's Shelter. Plaintiff FOX has lived on or around the Bowery since approximately 1972.

31. Plaintiff ROIG is a homeless person dependent on the Men's Shelter for lodging and food. He is currently sleeping at the Comet Hotel by virtue of a lodging voucher obtained from Defendant REID at the Men's Shelter. Plaintiff ROIG has lived on or around the Bowery since approximately 1974.

32. Plaintiff HAYES is a homeless person who sleeps in the streets and in other public places and is in need of shelter. He has been to the Men's Shelter and has been told that only floor space in the "big room" was available. Because shelter services have been and are so inadequate and dangerous at the Men's Shelter, Plaintiff HAYES considers sleeping in city streets preferable to seeking shelter at the Men's Shelter.

33. Plaintiff SPELLMAN is a homeless person who sleeps in the streets and in other public places and is

in need of shelter. In past years he has gone to the Men's Shelter to seek assistance. He has been lodged in the Palace Hotel, a dirty, unhealthy and dangerous lodging house. He has also slept in the "big room" at the Men's Shelter. While at the Palace Hotel and while in the "big room" Plaintiff SPELLMAN has been assaulted. In addition, he has suffered from the vermin, insects and other unhealthy and dangerous conditions at these facilities. Because shelter services have been and are so inadequate and dangerous at the Men's Shelter, Plaintiff SPELLMAN considers sleeping in city streets preferable to seeking shelter at the Men's Shelter.

34. Plaintiff TOOLE is a homeless person who sleeps in the streets and in other public places and is in need of shelter. In past years he has gone to the Men's Shelter to seek assistance. On a very cold night, on or about January 5, 1980, Plaintiff TOOLE applied for lodging at the Men's Shelter. No bed was made available to him but he was permitted to sleep on the floor in the "big room." During the night he was assaulted by three men and injured seriously. Because shelter services have been and are so inadequate and dangerous at the Men's Shelter, Plaintiff TOOLE considers sleeping in city streets preferable to seeking shelter at the Men's Shelter.

35. Plaintiffs FOX, HAYES, SPELLMAN and TOOLE and other members of the class, have been denied, at various times, a lodging voucher by Defendant REID. On such occasions, Plaintiffs FOX, SPELLMAN and TOOLE, and other members of the class, had to sleep on the concrete floor with up to several hundred other men in the "big room" at the Men's Shelter.

36. At any time, Plaintiffs CALLAHAN, FOX, ROIG or other members of the class may be told that Defendant REID has exhausted his supply of lodging vouchers. Plaintiffs then will be denied lodging and will have no place to sleep except in the "big room" at the Men's Shelter if there is space available and if not, in streets, parks, doorways, subways or other public places.

37. On information and belief, Defendants KOCH, BREZENOFF and REID have contracted with six (6) lodging houses on the Bowery to provide lodging to clients of the Men's Shelter at a cost to Defendants of \$2.28 per night for each man so lodged.

(a) The Delevan Hotel, where Plaintiff CALLAHAN currently sleeps, is one such lodging house;

(b) The Kenton Hotel, where Plaintiff FOX currently sleeps, is another such lodging house;

(c) The Comet Hotel, where Plaintiff ROIG currently sleeps, is another such lodging house.

(d) Other Bowery lodging houses under contract with Defendants where members of the Plaintiff class sleep are the Palace Hotel, the Union Hotel and the Sunshine Hotel.

38. On information and belief, the total number of beds in Bowery lodging houses which Defendants KOCH, BREZENOFF and REID presently have available each night for sheltering homeless men is approximately 925.

39. On information and belief, until March 31, 1980, Defendants have a capacity to shelter 180 homeless men in the Keener Building on Ward's Island.

40. On information and belief, between 1,200 and 2,000 men apply for services, including lodging, at the Men's Shelter each day. The number of men seeking lodging through the Men's Shelter exceeds the number of beds under contract with Defendants KOCH, BREZENOFF and REID. Further, an undetermined number of homeless men are systematically prevented from applying for shelter at the Men's Shelter.

41. On information and belief, at least several hundred men sleep in the "big room" at the Men's Shelter each night because Defendant REID has exhausted his supply of beds. During the colder months of the year several hundred additional men have been turned away each night from the Men's Shelter when floor space in the "big room" is filled.

42. Plaintiffs HAYES, SPELLMAN and TOOLE, and on information and belief an undetermined number of other homeless men -- estimated to be in the thousands -- do not seek shelter at the Men's Shelter because of the long-standing practice of violence and brutality associated with the Men's Shelter and the Bowery lodging houses used by the Men's Shelter.

43. On information and belief, Plaintiffs HAYES, SPELLMAN and TOOLE, and an undetermined number of other homeless men, do not seek lodging vouchers at the Men's Shelter because they know that the supply of beds has been exhausted.

44. On information and belief, approximately 8,000 homeless men, members of the Plaintiff class, sleep in streets, parks, doorways, steam tunnels and other public places in New York City each night. Further, on information and belief, approximately 1,000 homeless men sleep in New York City's subways each night.

45. By reason of Defendant REID's denial of a lodging voucher to Plaintiffs FOX, HAYES, SPELLMAN and TOOLE and other members of the class, Plaintiffs have been injured and have suffered substantial damages.



B. Substandard Accommodations

46. Plaintiff CALLAHAN, by virtue of a lodging voucher obtained from Defendant REID at the Men's Shelter, sleeps in a cubicle at the Delevan Hotel. Conditions at the Delevan Hotel are dirty, unhealthy and dangerous. At times, because conditions at the Delevan Hotel are so dirty, unhealthy and dangerous Plaintiff CALLAHAN sleeps in the streets. Previously, Plaintiff CALLAHAN slept at the Newport Hotel (now closed) by virtue of a lodging voucher obtained from Defendant REID. While at the Newport Hotel, Plaintiff CALLAHAN was assaulted.

47. Plaintiff FOX, by virtue of a lodging voucher obtained from Defendant REID at the Men's Shelter, sleeps in a cubicle at the Kenton Hotel. Previously, he slept in a dormitory at the Palace Hotel by virtue of a lodging voucher obtained from Defendant REID. Conditions at the Kenton Hotel and Palace Hotel are dirty, unhealthy and dangerous. While at the Palace Hotel, Plaintiff FOX was assaulted and robbed.

48. Plaintiff ROIG, by virtue of a lodging voucher obtained from Defendant REID at the Men's Shelter, sleeps in a dormitory at the Comet Hotel. Previously, he slept at the Union Hotel by virtue of such a lodging voucher. Conditions at the Comet Hotel and Union Hotel are dirty, unhealthy and dangerous.

49. On information and belief, the lodging houses under contract with Defendants KOCH, BREZENOFF and REID offer to Plaintiffs either dormitory space with upwards of 100 men sleeping in a single room or separate, unlocked 5-foot by 7-foot cubicles with chicken wire ceilings. Conditions in each of these lodging houses are dirty, unhealthy and dangerous. Plaintiffs are regularly robbed and assaulted while in these lodging houses.

50. On information and belief, the lodging houses under contract with Defendants KOCH, BREZENOFF and REID require Plaintiffs to vacate their premises at various times in the early morning. Plaintiffs are not permitted back into the lodging houses until various times in the afternoon. If any Plaintiff does not return to the lodging house by 11 p.m., he is denied admission.

51. On information and belief, the lodging houses under contract with Defendants KOCH, BREZENOFF and REID have a number of building and health code violations and are the scenes of numerous reported and unreported crimes.

52. On information and belief, no medical or psychiatric care, or hygienic, rehabilitative or other social services of any kind are available at any of the lodging houses under contract with Defendants KOCH, BREZENOFF, and REID.

53. By reason of Defendants' use of the aforementioned lodging houses to shelter Plaintiffs CALLAHAN, FOX, ROIG, SPELLMAN, TOOLE and other members of the class, Plaintiffs have been injured and have suffered substantial damages.

C. Hygienic and Rehabilitative Services

54. Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN, TOOLE and other members of the class regularly need, and cannot obtain, basic hygienic, rehabilitative and other social services.

55. Defendants CAREY, BLUM, KOCH, BREZENOFF and REID fail to provide Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN, TOOLE and other members of the class with sufficient hygienic services such as delousing, showers or laundry facilities at the Men's Shelter or at any other location within New York City.

56. By reason of Defendants' failure to provide the aforementioned services and care to Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN, TOOLE and other members of the class, Plaintiffs have been injured and have suffered substantial damages.

D. Security at Men's Shelter

57. Plaintiffs CALLAHAN, FOX, ROIG and other members of the class go regularly to the Men's Shelter for meals and lodging vouchers. Each has been assaulted in or near the Men's Shelter. Plaintiffs are endangered whenever they go to the Men's Shelter because of the unsafe conditions in and around the Men's Shelter.

58. Plaintiffs CALLAHAN, FOX, ROIG, SPELLMAN and TOOLE have been assaulted in the Men's Shelter and at the Bowery lodging houses used by Defendants to lodge homeless men.

59. On information and belief, there are a number of reported and unreported crimes in and around the Men's Shelter.

60. Defendants CAREY, BLUM, KOCH, BREZENOFF and REID fail to provide sufficient security in and around the Men's Shelter (including in the Bowery lodging houses) to make it a reasonably safe environment for Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN, TOOLE and other members of the class.

61. By reason of Defendants' failure to provide sufficient security in and around the Men's Shelter, Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN, TOOLE and other members of the class have been injured and have suffered substantial damages.

E. Information on Benefits

62. Plaintiffs CALLAHAN, FOX, ROIG, SPELLMAN, TOOLE and other members of the class have applied for, and have received, public assistance at the Men's Shelter and have not been advised of other assistance or services to which they may be entitled.

63. On information and belief, Defendants do not make generally available to applicants for or recipients of public assistance at the Men's Shelter information about other assistance or services to which they may be entitled.

64. By reason of Defendants' failure to make available the aforesaid information to Plaintiffs CALLAHAN, FOX, ROIG, SPELLMAN, TOOLE and other members of the class, Plaintiffs have been injured and have suffered substantial damages.

CAUSES OF ACTION

Count I

65. Plaintiffs respectfully repeat and reallege each and every allegation contained in paragraphs 2 through 61 herein.

66. New York provides a comprehensive package of assistance and services to indigents residing or found within

the state under its home relief program. Persons on home relief obtain support to rent permanent lodging. Other benefits provided to persons on home relief include: a cash grant for basic needs including food and clothing, hotel allowances if needed, automatic eligibility for the federal food stamp program, a cash grant for restaurant meals if needed, employment training if needed, and home-maker or housekeeper services if needed. In addition, indigents in New York are eligible for Medicaid which provides recipients with, among other things, free comprehensive psychiatric, medical, dental and hospital care.

67. Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN, TOOLE and other members of the class, are similarly situated with persons receiving home relief except, because of various disabilities, they are generally in greater need of assistance, care and services than those persons on home relief.

68. By failing to make available a sufficient supply of adequate lodging to meet the needs of Plaintiffs, and by failing to provide adequate hygienic, rehabilitative and other social services to Plaintiffs in a reasonably safe environment at the Men's Shelter or at some other location in New York City, Defendants CAREY, BLUM, KOCH, BREZENOFF and REID have violated and are continuing to violate Plaintiffs' rights to equal protection of the law as guaranteed by the

Fourteenth Amendment to the United States Constitution and Article I, § 11 of the New York Constitution.

Count II

69. Plaintiffs respectfully repeat and reallege each and every allegation contained in paragraphs 2 through 61 herein.

70. By failing to make available a sufficient supply of adequate lodging to meet the needs of Plaintiffs, and by failing to provide adequate hygienic, rehabilitative and other social services to the Plaintiffs in a reasonably safe environment, at the Men's Shelter or at some other location in New York City Defendants CAREY, BLUM, KOCH, BREZENOFF and REID have violated and are continuing to violate Article XVII, § 1 of the New York Constitution, §§ 131(1), 131-1 and 363 et seq. of the New York Social Services Law, § 19.01 et seq. of the New York Mental Hygiene Law, and Title 18 of the New York Code of Rules and Regulations.

Count III

71. Plaintiffs respectfully repeat and reallege each and every allegation contained in paragraphs 2 through 7, and 10 through 61 herein.

72. By failing to make available a sufficient supply of adequate lodging to meet the needs of Plaintiffs, and by failing to provide adequate hygienic, rehabilitative and other social services to Plaintiffs in a reasonably safe environment at the Men's Shelter or at some other location in New York City, Defendants KOCH, BREZENOFF and REID have violated and are continuing to violate § 62(1) of the New York Social Service Law and § 604.1.0(b) of the New York City Administrative Code.

#### Count IV

73. Plaintiffs respectfully repeat and reallege each and every allegation contained in paragraphs 2 through 19, 24, 62 through 64 herein.

74. By failing to make available to all applicants or recipients of public assistance at the Men's Shelter information about other assistance or services to which they may be entitled, Defendants CAREY, BLUM, KOCH, BREZENOFF and REID have violated and are continuing to violate the due process clauses of the United States and New York Constitutions and Title 18, § 351.1 of the New York Code of Rules and Regulations.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiffs CALLAHAN, FOX, ROIG, HAYES, SPELLMAN and TOOLE, on behalf of themselves, the class and the



sub-classes, respectively pray that this Court enter judgment:

1. certifying this case as a class action pursuant to Article 9 of the CPLR;

2. declaring that Defendants' failure to provide an adequate supply of lodging quarters to meet the needs of Plaintiffs violates the Fourteenth Amendment to the United States Constitution, Article I, § 11 and Article XVII, § 1 of the New York Constitution, §§ 62(1) and 131(1) of the Social Services Law, § 604.1.0(b) of the New York City Administrative Code and Title 18 of the New York Code of Rules and Regulations;

3. ordering Defendants to provide an adequate supply of lodging quarters to meet the needs of Plaintiffs;

4. declaring that Defendants' policy and practice of providing lodging to Plaintiffs in Bowery lodging houses and on the floor of the "big room" at the Men's Shelter violates the Fourteenth Amendment to the United States Constitution, Article I, § 11 and Article XVII, § 1 of the New York Constitution, §§ 62(1) and 131(1) of the Social Services Law, § 604.1.0(b) of the New York City Administrative Code and Title 18 of the New York Code of Rules and Regulations;

5. ordering Defendants to come forward with a plan establishing lawful standards to provide safe and decent lodging to Plaintiffs;

6. ordering Defendants to provide Plaintiffs with safe and decent lodging in accordance with a plan establishing standards for such lodging;

7. declaring that Defendants' operation of the Men's Shelter violates the Fourteenth Amendment to the United States Constitution, Article 1, § 11 and Article XVII, § 1 of the New York Constitution, §§ 62(1), 131(1), 131-1 and 363 et seq. of the Social Services Law, § 604.1.0(b) of the New York City Administrative Code and Titles 14 and 18 of the New York Code of Rules and Regulations, by their failure to provide adequate security and sufficient hygienic, rehabilitative and other social services at the Men's Shelter or at some other location or locations within New York City;

8. ordering Defendants to provide at the Men's Shelter or at some other location or locations within New York City: (a) basic hygienic services including delousing, showers and laundry facilities in sufficient quantity to meet the needs of Plaintiffs; (b) adequate rehabilitative and protective services to meet the needs of Plaintiffs; and (c) sufficient security to make the Men's Shelter and the area surrounding the Men's Shelter a reasonably safe environment;

9. declaring that Defendants' operation of New York's shelter program has been so inadequate that the Defendants have systematically prevented members of the Plaintiff sub-class from applying for assistance at the Men's Shelter;

10. ordering Defendants to develop and implement a reasonable program to reach out to those members of the Plaintiff sub-class who have been systematically prevented from applying for assistance at the Men's Shelter;

11. declaring that Defendants' failure to inform Plaintiffs of public assistance benefits to which they may be entitled at the time of their application for assistance at the Men's Shelter or upon their receipt of assistance at the Men's Shelter violates the Fourteenth Amendment to the United States Constitution, Article 1, § 6 of the New York Constitution and Title 18, § 351.1 of the New York Code of Rules and Regulations;

12. ordering Defendants to inform Plaintiffs of public assistance benefits to which they may be entitled upon their application for assistance at the Men's Shelter and upon their receipt of assistance at the Men's Shelter;

13. awarding Plaintiffs adequate and appropriate damages; and

14. allowing Plaintiffs' costs, reasonable attorneys' fees and such other and further relief as this Court may deem proper.

Respectfully submitted,

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Dated: New York, New York  
April 30, 1980

Index No. 72581/79

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

ROBERT CALLAHAN, et al., on  
their own behalves and on  
behalf of all others similarly  
situated,

Plaintiffs,

-against-

HUGH L. CAREY, as Governor of  
the State of New York, et al.,

Defendants.

AMENDED COMPLAINT

THE LEGAL AID SOCIETY  
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