

Case No. 06-16039, 06-16120, 06-17000

FILED

JUN 27 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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JENNIFER FRANET,
Plaintiff, Appellee, and Cross-Appellant,

vs.

COUNTY OF ALAMEDA, KAREN CASTRO, and JOAN HINTZEN,
Defendants, Appellant, and Cross-Appellees.

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA, CASE No. CV-02-03787-MJJ
THE HONORABLE MARTIN J. JENKINS

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MOTION OF THE NATIONAL ASSOCIATION OF SOCIAL
WORKERS AND ITS CALIFORNIA CHAPTER FOR LEAVE
TO FILE A BRIEF *AMICUS CURIAE* IN SUPPORT OF
APPELLANT KAREN CASTRO

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The National Association of Social Workers and NASW, California, its
California, chapter respectfully move the Court pursuant to *Fed. R. App. P.* 29 for
leave to file a brief *amicus curiae* in support of Defendant and Appellant Karen
Castro; and in support thereof, state as follows:

1. With about 150,000 members, the National Association of Social
Workers ("NASW") is the largest organization of professional social workers in

the world. The California Chapter of NASW represents 11,663 members. Created in 1955 by the merger of seven predecessor social work organizations, the purposes of NASW include improving the quality and effectiveness of social work practice in the United States and developing and disseminating high standards of social work practice, concomitant with the strengthening and unification of the social work profession as a whole.

2. In furtherance of these purposes, NASW promulgates professional standards and criteria. Additionally, NASW conducts research, prepares studies of interest to the profession, sponsors the NASW press, provides opportunities for continuing education, and enforces the NASW Code of Ethics, which NASW members are required to honor.

3. NASW supports a wide range of efforts to address the needs of families in the child welfare system, including recognition of the professional discretion that should be afforded to the decisions of licensed, trained social workers that work within that system. "NASW believes that children and families who are served through the public child welfare system have a right to the same level and quality of services delivered by professional social workers in other fields of practice. Furthermore, because the philosophical base of public child welfare requires both rehabilitative and preventive services, social workers need skill and

professionalism to provide these services under the legally mandated authority of the public agency.” Public Child Welfare in SOCIAL WORK SPEAKS, 301 (National Association of Social Workers 2006). NASW has a significant interest in seeing that social workers’ discretionary, professional determinations are appropriately protected by the courts, in order to maintain a professional cadre of staff within child welfare agencies. “NASW reaffirms that professional social work practice in public child welfare exemplifies the profession's values and mission to serve the most vulnerable.” *Id.* at 303.

4. This case arises from the determination of social workers and the child protective agencies of the County of Alameda temporarily to remove a child from the parent’s home because of suspicion that the child was subject to abuse and raises the question of the personal liability of a social worker who exercises her discretion in making that determination. Child abuse is a serious and pervasive problem in California and throughout the United States. Because professional social workers play a significant role in governmental efforts to protect children who are in abusive situations, the NASW and its California chapter are particularly interested that the law develop in a manner which, to the extent practicable, will permit social workers and others working in child protection agencies to exercise their professional judgment as to the welfare of children at

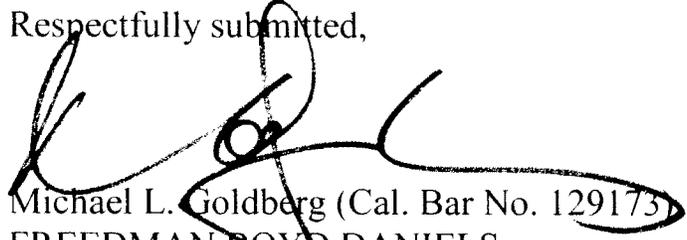
risk free of the threat of personal liability, and that there be a clear procedure for determining when personal liability is warranted.

5. Movants believe that their experience in and knowledge of the constraints under which social workers operate in settings such as those presented by this case, and their overall understanding of the policy objectives of governmental social services entities and the role that social workers must play in achieving those objectives will assist the Court in its adjudication of these appeals. Movants believe that clarification of the respective roles of the judge and the jury in determining the applicability of the limited immunity provided by federal common law, set out in the proposed *amicus* brief is relevant to the issues presented by this case and their resolution.

6. Pursuant to *Fed. R. App. P.* 29(b) the proposed Brief *Amicus Curiae* of the NASW and NASW, California, its California chapter, accompanies this motion.

Dated: June 25, 2007

Respectfully submitted,



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CERTIFICATE OF SERVICE

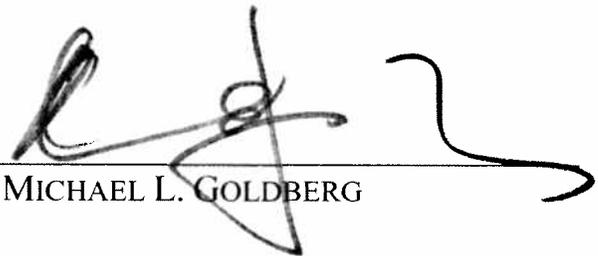
I hereby the foregoing Motion of the National Association of Social Workers and its California Chapter for Leave To File a Brief *Amicus Curiae* in Support of Appellant Karen Castro was sent on this 25th day of June, 2007 via first class mail, postage-paid to the following:

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