

Endnotes

¹ See, e.g., *Abdouch v. Burger*, 426 F.3d 982 (8th Cir. 2005) and *Babcock v. Tyler* (884 F.2d 497 (9th Cir. 1989) (absolute immunity shields social workers to the extent that their role is functionally equivalent to that of a prosecutor); but, see *Burton v. Richmond*, 276 F.3d 973 (2002) (when a state department of human services affirmatively places children in an abusive foster care setting, the state may be liable for damages); *Gray v. Poole*, 275 F.3d 1113, (D.C. Cir. 2002) (qualified immunity covers social service workers acting as investigators, but when testifying as witnesses they are protected by absolute immunity). Qualified immunity is often afforded if the social work is involved in a "discretionary function" unless his or her conduct is clearly a violation of a statute or constitutional principle (*Snell v. Tunnell*, 698 F. Supp. 1542 (W.D. Okla. 1988)).

² *Harlow v. Fitzgerald*, 457 U.S. 800 (1982) (absolute immunity is appropriate in limited circumstances -- judicial, prosecutorial, and legislative functions-- whereas executive officials usually receive qualified immunity).

³ Cal. Gov't Code § 821.6

⁴ *Cunningham v. Wenatchee*, 214 F. Supp. 2d 1103 (E.D. Wash. 2002).

⁵ 348 F.3d 820 (9th Cir. 2003). *Doe v. Lebbos* was overruled in January 2008 by *Beltran v. Santa Clara* No. 05-16976 D.C. No CV-03D-0.C3.7 6N7o-.RMW. The court wrote: "The district court's error is perfectly understandable, as it relied on our incorrect ruling in *Doe v. Lebbos*, which we overrule today." It added: "Furthermore, as prosecutors and others investigating criminal matters have no absolute immunity for their investigatory conduct, a fortiori, social workers conducting investigations have no such immunity."

⁶ 911 F.2d 863, (2d Cir. 1990).

⁷ 275 F.3d 1113 (D.C. Cir 2002).

⁸ 270 F.3d 416 (6th Cir. 2001).

⁹ 830 F.2d 1356, 1363 (5th Cir. 1987).