

within the time prescribed by law, file this Notice of Removal. The State of Georgia, the Georgia Department of Labor, and Commissioner Mark Butler in his official capacity (“Defendants”) file this notice subject to and without waiving any defenses available to it under state and federal law. Defendants respectfully show the Court as follows:

1.

On June 17, 2021, Plaintiffs filed a civil action against the Defendants in the Superior Court of Fulton County, State of Georgia, said action being designated as:

VON KING, DANIELLE JOHNSON, GERELINE THOMPSON, CHELSEA SHAW, and JANE/JOHN DOE 1-9, Plaintiffs, on behalf of themselves and all others similarly situated, v. STATE OF GEORGIA, GEORGIA DEPARTMENT OF LABOR, and COMMISSIONER MARK BUTLER, in his official capacity, Defendants. In The Superior Court of Fulton County, Civil Action No. 2021CV350906.

A copy of the “Complaint For Declaratory And Injunctive Relief And Damages” (“Complaint”) is attached hereto as Exhibit “A.”

2.

In addition to filing the Complaint on June 16, 2021, Plaintiffs also filed a superior court case filing information form and summons for each Defendant. A copy of the case filing information form is attached as Exhibit “B. The summonses are attached as Exhibit “C.”

3.

On July 1, 2021, counsel for Plaintiffs asked undersigned counsel for Defendants, Deputy Attorney General Bryan K. Webb of the Office of the Georgia Attorney General, to waive service of the Complaint and summonses on behalf of Defendants. Plaintiffs' counsel's request was emailed to Defendants' counsel that day and included emailed copies of the Complaint, the superior court case filing information form, the summonses, the "Plaintiffs' Notice of Rule 30(B)(6) Deposition To Defendants State of Georgia And/Or Georgia Department of Labor," and an "Acknowledgement of Service and Waiver of Process" dated July 2, 2021. A copy of the emailed "Plaintiffs' Notice of Rule 30(B)(6) Deposition To Defendants State of Georgia And/Or Georgia Department of Labor" is attached as Exhibit "D."

4.

On July 2, 2021, Deputy Attorney General Bryan K. Webb signed Plaintiffs' "Acknowledgement of Service and Waiver of Process" on behalf of the Defendants and returned it to Plaintiffs' counsel. On July 6, 2021, Plaintiffs filed a "Notice of Filing Acknowledgment of Service and Waiver of Process," which is attached as an exhibit "Acknowledgement of Service and Waiver of Process" signed by Bryan

K. Webb. A stamped filed copy of Plaintiffs' "Notice of Filing Acknowledgment of Service and Waiver of Process" is attached as Exhibit "E."

5.

In the Complaint, Plaintiffs asserts that Defendant Georgia Department of Labor ("Defendant GDOL") has "fail[ed] to make prompt determination regarding unemployment benefits, fail[ed] to provide prompt appeal hearings of those determinations, and fail[ed] to make payments that are undeniably due." *See* Exhibit "A," p. 2.

6.

Additionally, the Complaint alleges:

As a result of the GDOL's failures, Plaintiffs, on behalf of themselves and all others similarly situated, file this Class Action Complaint for damages and declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 and Ga. Const. Art. 1 § 2 ¶ V to compel Defendants State of Georgia, the GDOL, and GDOL Commissioner Mark Butler in his official capacity to comply with their obligations under the Georgia Employment Security Law, O.C.G.A. § 34-8-1 *et seq.* and regulations promulgated in accordance with this law, to promptly process unemployment applications, make determinations of eligibility, pay the unemployment benefits for which they have been deemed eligible, and schedule requested administrative appeal hearings.

Id. at pp. 3-4.

7.

Furthermore, Plaintiffs allege that they bring their action under O.C.G.A. § 9-11-23 on behalf of themselves and three separate classes of similarly situated people: “The Prompt Determination Class,” “The Prompt Payment Class,” and “The Prompt Appeal Class.” *Id.* at pp. 24, 28, and 31. Plaintiffs assert the following claims under state and federal law:

Count One: Failure To Make Prompt Initial Determinations Under O.C.G.A. § 34-8-192(a) And Ga. Const. Art. VI § 2;

Count Three: Failure To Make Prompt Payments Under O.C.G.A. § 34-8-192(d) And Ga. Const. Art. VI § 2;

Count Five: Failure To Provide Prompt Appeals Under Ga. Comp. R. & Regs. 300-2-5-.02(2)(A) And Ga. Const. Art. VI § 2; and

Counts Two, Four, and Six: Violation Of Federal Due Process Constitutional Rights, Pursuant To 42 U.S.C. § 1983 And The Fourteenth Amendment Of The U.S. Constitution.

Id. at pp. 35, 37, 38, 40, 41, and 43.

8.

Plaintiffs are seeking various forms of relief, including but not limited to, trial by jury; class certification; declaratory and injunctive relief; actual, exemplary and punitive damages; and attorney’s fees and costs. *Id.* at pp. 44-45.

9.

Plaintiffs' Complaint presents a federal question over which this Court has original subject matter jurisdiction under the provision of 28 U.S.C. § 1331, and, accordingly, is one which may be removed to this Court pursuant to the provision of 28 U.S.C. § 1441(a).

10.

On July 30, 2021, Defendants filed their "Answer and Defenses" to Plaintiffs' Complaint in the Superior Court of Fulton County, State of Georgia. Defendants attach Exhibit "F," which is a true and accurate copy of their "Answer and Defenses" filed in the Superior Court of Fulton County, State of Georgia.

11.

Defendants also attach Exhibit "G," which is a true and accurate copy of the Superior Court Notice of Removal *to be* filed in the Superior Court of Fulton County, State of Georgia.

12.

Exhibits "A" through "G" constitute copies of all process, pleadings, and orders, which have been served upon or received by Defendants or which have been filed or will be filed by Plaintiffs or Defendants in the Superior Court of Fulton County, State of Georgia.

Atlanta, Georgia 30334-1300

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I served the within and foregoing **DISTRICT COURT NOTICE OF REMOVAL** on the same day as electronically filing the same with the Court, by one or both of the following methods: by depositing a copy thereof with the United Parcel Service properly packaged or by depositing a copy in the U.S. Mail postage prepaid, properly addressed to the following persons:

Jason J. Carter and Juliana Mesa
Bondurant, Mixson & Elmore, LLP
3900 One Atlantic Center
1201 West Peachtree Street, N.W.
Atlanta, GA 30309-3417

Emily C.R. Early
The Southern Poverty Law Center
P.O. Box 1287
Decatur, Georgia 30031-1287

This 30th day of July, 2021.

/s/ Kimberly B. Lewis
KIMBERLY B. LEWIS 451925
Senior Assistant Attorney General
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**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

**VON KING, DANIELLE JOHNSON,
GERELINE THOMPSON,
CHELSEA SHAW, and JANE/JOHN
DOE 1-9,**

**Plaintiffs, on behalf
of themselves and all others
similarly situated,**

v.

**STATE OF GEORGIA,
GEORGIA DEPARTMENT OF
LABOR, and
COMMISSIONER MARK BUTLER,
in his official capacity,**

Defendants.

CIVIL ACTION 2021CV350906

JURY TRIAL DEMANDED

(CLASS ACTION)

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND DAMAGES**

INTRODUCTION

In the midst of the largest unemployment catastrophe in recent memory, the Georgia Department of Labor (“GDOL”) has repeatedly failed to follow the law governing the payment of unemployment benefits. State and federal law guarantees certain promptness and due process rights to Plaintiffs, and all other members of the classes that Plaintiffs seek to represent. Repeatedly and systematically, the GDOL

has violated those rights—failing to make prompt determinations regarding unemployment benefits, failing to provide prompt appeal hearings of those determinations, and failing to make payments that are undeniably due.

Indeed, a brief scan of the GDOL’s own social media pages reveals innumerable posts highlighting the extent of the GDOL’s failures, inaccessibility, and severe delays in determining eligibility, paying benefits, and scheduling appeal hearings. The below posts—all posted since June 4, 2021—show that these delays remain a common and pressing issue:

- “I got a job offer can’t get there due to y’all not providing the benefits I’ve been approved for since 5/28 after waiting 9 weeks y’all really playing with my life it’s so wrong.”
- “I need help with my claim since March...they keep saying email and no response.”
- “How about figuring out how to properly disburse this to the thousands of ppl waiting for help before talking about taking it away? There are thousands of ppl waiting for GDOL to do their jobs. Ppl waiting months on months on months. I guess when it’s not your life or your kids it’s easier to not care...”
- “Georgia Department of Labor can you resolve the mystery of when you will be opening your offices up? If the state is open and it’s safe for us to return to work, why are you still closed?”
- “I am waiting on back payments from 6- 27 to 7-25 2020. I’ve done everything including going back to work in August 2020. I filed a new claim due to bye year ending and nothing. Who do I contact?”
- “I have a determination letter from over a year ago for PEUC. You guys have told me to keep claiming each week. Still no deposits. Now I’m

not going to see that money?! 11 months and no one can return a phone call or email...”

- “I have been unemployed since March 2021. I have called several phone numbers and even emailed [Mark] Butler about my situation. Currently all my utilities bills are past due and on disconnection notice...”
- “My husband was approved for pua because he is 1099 so didn’t approve for UI. He was approved last year and has never received a payment and has done all they have asked!!! We have emailed and left messages no one ever calls back! I also talked with someone on fb through this site they said they would put him on a call list but nope nothing!”
- “Please help me. It’s dire. I’m in critical need of assistance. I reapplied in March, received 2 payments, was asked to verify id and I did that, received a letter May 7th stating the amount I’ve been approved for, but have yet to receive another payment. [I’ve] been certifying each week. I’ve left over 60 messages without any return calls. I’m in the process of being foreclosed on and I’m 2 months behind on my car. Please help me. I’m desperate. I’m going on 9 weeks without pay. This is a dire situation.”
- “I filed an appeal in August. Still NOTHING! It’s June! Timeliness?? I beg to differ!”¹

As a result of the GDOL’s failures, Plaintiffs, on behalf of themselves and all others similarly situated, file this Class Action Complaint for damages and declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 and Ga. Const. Art. 1 § 2 ¶ V to compel Defendants State of Georgia, the GDOL, and GDOL Commissioner Mark Butler in his official capacity to comply with their obligations

¹ Ga. Dep’t of Labor, Official Facebook webpage.

under the Georgia Employment Security Law, O.C.G.A. § 34-8-1 *et seq.* and regulations promulgated in accordance with this law, to promptly process unemployment applications, make determinations of eligibility, pay the unemployment benefits for which they have been deemed eligible, and schedule requested administrative appeal hearings.

The failures of Defendants—during a time where so many Georgians are in desperate need of assistance—violate the law and the rights of Plaintiffs and their fellow Class Members, and they have caused monetary damage. Further, the failures will not stop unless the Court declares that Defendants have violated the law and enjoins Defendants from continued violations and mandates that Defendants comply with state and federal law. Plaintiffs thus ask the Court to (1) certify the classes specified below, (2) declare that the Defendants’ practices violate Georgia statutory law and federal constitutional law, (3) provide the injunctive relief specified below and any other injunctive relief that the Court deems just and proper; (4) find that the State has violated the Due Process Rights of the Class Members under 42 U.S.C. § 1983, and award those damages that a jury determines are owed.

BACKGROUND

1.

The COVID-19 global pandemic hit the State of Georgia hard, creating a constant source of economic stress, fear, and anxiety for Georgians. Georgia has

seen countless businesses substantially decrease their operating capacity or cease operating altogether, resulting in thousands of employees exercising significant cuts in their hours and wages or losing employment. Consequently, unemployed Georgians are struggling to pay for housing, utilities, and medical care for themselves and their families.² These effects from the pandemic underscore the need for prompt determinations of eligibility, payment of unemployment compensation to eligible claimants, and scheduling of administrative appeals hearings.

2.

The pandemic has led to devastating levels of unemployment in Georgia. At its peak, unemployment in Georgia rose to 12.6% in 2020.³ The total number of regular initial unemployment claims filed in Georgia reached 4,155,205 for the period between the weeks ending in March 21, 2020, and December 12, 2020,

² Ray Khalfani, Ga. Budget & Policy Institute, *State of Working Georgia: 2020 COVID Crisis Year-End Review* (Dec. 18, 2020), <http://bit.ly/3o18LK3>; Amanda Aguilar, *Delays in unemployment benefits still plague the jobless in Georgia*, Fox5 Atlanta, Dec. 23, 2020, <http://bit.ly/2KPkBZz>; Christopher Quinn & Matt Kempner, *Georgians ground down by waits for unemployment assistance*, Atlanta Journal Constitution, June 4, 2020, <http://bit.ly/3hQlfID>.

³ Georgia Department of Labor, *Unemployment Rate and Nonagricultural Employment*, <https://dol.georgia.gov/unemployment-rate-and-nonagricultural-employment> (last visited Jun. 8, 2021).

compared to a total of 194,077 claims filed for a similar period in 2019 (between weeks ending March 23, 2019, and December 14, 2019).⁴

3.

The U.S. Congress responded to the country-wide unemployment crisis by expanding unemployment benefits throughout the country. As of March 2021, Congress allocated \$67 million to the GDOL to “assist the state with the administrative functions required to set up programs to administer and distribute the three temporary Unemployment Insurance benefits created under the Coronavirus Aid Relief and Economic Security (CARES) Act (P.L. 116-136).”⁵

4.

Despite the millions of dollars in assistance, applicants for unemployment benefits in Georgia have experienced extreme delays at every step of the process, including waiting several months for a GDOL claims examiner to consider their application for benefits and determine their eligibility, to receive payments for which they have been deemed eligible, and to have their appeals hearing scheduled.

⁴ U.S. Dep’t of Labor, *Unemployment Insurance Weekly Claims Data*, available at <http://bit.ly/358vAnw> (last visited Dec. 29, 2020) (select “State” and enter “2020” for “Beginning Year” and “Ending Year” and select “Georgia”).

⁵ Letter from Georgia’s Democratic Congressional Delegation to Acting Inspector General (“Democratic Congressional Delegation Letter”) (March 10, 2021), available at https://bourdeaux.house.gov/sites/evo-subsites/bourdeaux.house.gov/files/evo-media-document/2021.03.09%20DOL%20OIG%20Letter_FINAL.pdf.

Applicants frequently go months without being able to reach anyone at the GDOL or being contacted by someone at the GDOL.

5.

Although there are approximately 400,000 Georgians currently receiving benefits, there were approximately 180,000 who had yet to have their applications reviewed as of March of 2021.⁶ And although the GDOL stated in December of 2020 that there are no longer back logs in processing claims for those who are initially considered eligible, the GDOL Commissioner, Defendant Mark Butler, admitted that the number of claims still waiting to be adjudicated was “probably anywhere between 40,000-50,000.”⁷

6.

The law expressly requires that the GDOL act promptly because

Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which so often falls with crushing force upon the unemployed worker or the worker’s family.

O.C.G.A. § 34-8-2. Here, Defendants’ extreme delays violate this provision. This has forced Plaintiffs and their fellow Class Members to face months of uncertainty,

⁶ Democratic Congressional Delegation Letter, *supra* n. 5.

⁷ Elizabeth Rawlins, *GDOL commissioner responds to calls for investigation into unemployment claims process*, Fox5 Atlanta, Dec. 24, 2020, <http://bit.ly/3n1TJCy>.

dealing with this “crushing force” while struggling to pay rent and utilities, feed themselves and their families, and pay other regular expenses like medical bills and car payments.

7.

The extreme delays in the unemployment application process are a result of policies and procedures within Defendants’ control. For example, despite the alarming unemployment rates and numbers of applications for unemployment benefits in Georgia, the GDOL has employed half of the staff (only 1,066 in 2020), that it had during the Great Recession (2,219 in 2019).⁸

8.

Defendants’ failures are demonstrated by the ability of other states to properly process their unemployment applications. Indeed, state rankings by the U.S. Department of Labor on core measures related to the administration of Unemployment Insurance show that Georgia is severely underperforming.⁹

9.

On the core measure on promptness of first payment (“First Payments in 14/21 days”) Georgia ranked 28th, with only 59.4% of payments made within that

⁸ See Khalfani, *supra* n. 2.

⁹ U.S. Dep’t of Labor, *State Rankings of Core Measures*, available at <https://oui.doleta.gov/unemploy/ranking.asp> (last visited March 23, 2021).

timeframe for the last quarter of 2020.¹⁰ This category measures the number of days elapsed between the week-ending date of the first compensable week in the benefit year and the date payment is made; its “acceptable level of performance” is at least 87%.¹¹ Although Georgia improved in this category in the first quarter of 2021, with 74.5% of payments made within that timeframe, Georgia still fell well below the “acceptable level of performance” of 87%.¹²

10.

Georgia fares even worse when it comes to “nonmonetary determinations in 21 days,” ranking 40th—with only 12.7% of determinations made within 21 days during the last quarter of 2020.¹³ The acceptable level for this measure is 80%.¹⁴ A nonmonetary determination (claims examiner’s determination) in Georgia is a determination informing a claimant whether they qualify to receive benefits based

¹⁰ *Id.* (select “First Payments in 14/21 days” and starting quarter October 2020 and ending quarter December 2020).

¹¹ U.S. Dep’t of Labor, *Core Measures and Acceptable Levels of Performance*, available at https://oui.doleta.gov/unemploy/pdf/Core_Measures.pdf (last visited April 26, 2021).

¹² U.S. Dep’t of Labor, *State Rankings of Core Measures*, available at <https://oui.doleta.gov/unemploy/ranking.asp> (select “First Payments in 14/21 days” and starting quarter January 2021 and ending quarter March 2021) (last visited March 23, 2021).

¹³ *Id.* (select “Nonmonetary Determinations 21-day Timeliness” and starting quarter October 2020 and ending quarter December 2020).

¹⁴ U.S. Dep’t of Labor, *Core Measures and Acceptable Levels of Performance*, available at https://oui.doleta.gov/unemploy/pdf/Core_Measures.pdf (last visited April 26, 2021).

on their reason for job separation, their availability for work, and other eligibility requirements in accordance with the Georgia Employment Security Law.¹⁵

11.

Georgia's performance only got worse in this category during the first quarter of 2021. Not only did Georgia's ranking drop even lower than the previous quarter, but its own rates of nonmonetary determinations dropped from 12.7% to just over 10%.¹⁶

12.

Most alarming of all, Georgia had the second longest delay in the entire country on "Average Age of Pending Lower Authority Appeals." This measure is the sum of the ages, in days from filing, of all pending Lower Authority Appeals divided by the number of Lower Authority Appeals. In the last quarter of 2020, these appeals had an average age of **217.8 days**.¹⁷ The acceptable level for this measure is 30 days or less.¹⁸

¹⁵ See Ga. Dep't of Labor, *Unemployment Insurance Claimant Handbook* (hereinafter "Handbook") at 15, available at <https://bit.ly/2JuPgDJ>.

¹⁶ *Id.* (select "Nonmonetary Determinations 21-day Timeliness" and starting quarter January 2021 and ending quarter March 2021).

¹⁷ *Id.* (select "Average Age of Pending Lower Authority Appeals" and starting quarter October 2020 and ending quarter December 2020).

¹⁸ U.S. Dep't of Labor, *Core Measures and Acceptable Levels of Performance*, available at https://oui.doleta.gov/unemploy/pdf/Core_Measures.pdf (last visited April 26, 2021).

13.

Once again, Georgia's performance only got worse during the first quarter of 2021. The average age of lower authority appeals in Georgia increased by over 38 days, leading to an average age of 256.4.¹⁹ Only West Virginia performs worse on this metric.

PARTIES

14.

Plaintiff Von King is a resident of Clarke County, Georgia.

15.

Plaintiff Danielle Johnson is a resident of DeKalb County, Georgia.

16.

Plaintiff Gereline Thompson is a resident of Burke County, Georgia.

17.

Plaintiff Chelsea Shaw is a resident of Floyd County, Georgia.

18.

Defendants are the State of Georgia, the Georgia Department of Labor, and GDOL Commissioner Mark Butler, in his official capacity. These Defendants may be served by providing a copy of the complaint and summons to the Attorney

¹⁹ *Id.* (select "Average Age of Pending Lower Authority Appeals" and starting quarter January 2021 and ending quarter March 2021).

General of Georgia at 40 Capitol Square SW, Atlanta GA 30334, or by personal service.

JURISDICTION AND VENUE

19.

This Court has jurisdiction over this action pursuant to Ga. Const. Art. VI § 4 ¶ 1.

20.

Venue is proper in this Court pursuant to Ga. Const. Art. VI § 2 and O.C.G.A. § 9-4-1 *et seq.*

STATEMENT OF FACTS COMMON TO THE CLASSES

Federal and State Unemployment Insurance Compensation in Georgia

21.

Created in 1935 during the Great Depression, Unemployment Insurance is a joint federal-state system, overseen by the federal government and operated by the states, that provides cash benefits to qualifying individuals to limit immediate hardship experienced from the loss of employment and in turn, to stabilize the economy by shoring up workers' purchasing power during economic downturns.²⁰

²⁰ Chad Stone & William Chen, Ctr. On Budget & Policy Priorities, *Introduction to Unemployment Insurance* (2020), <http://bit.ly/38MFU5Q>.

22.

Unemployment insurance provides payments to states to finance the administration of their Unemployment Insurance compensation laws. 42 U.S.C. §§ 501-504.

23.

Georgia is eligible to receive Unemployment Insurance from the federal government if it meets certain federal requirements, including that its law has a provision for “such methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation *when due*.” 42 U.S.C. § 503(a)(1) (emphasis added).

24.

This section of the Social Security Act is known as the “when due” provision. The federal regulation interpreting the “when due” provision requires that Georgia unemployment compensation laws provide for “such methods of administration as will reasonably ensure the full payment of unemployment benefits to eligible claimants with the greatest promptness that is administratively feasible.” 20 C.F.R. § 640.3(a).

25.

In accordance with these federal requirements, Georgia passed the Employment Security Law, O.C.G.A. § 34-8-1 *et seq.* This law creates the Georgia

Department of Labor and gives the Commissioner power to operate a program of unemployment compensation.

26.

The Georgia statute recognizes that:

Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which so often falls with crushing force upon the unemployed worker or the worker's family.

O.C.G.A. § 34-8-2.

27.

“Unemployment benefits provide cash to a newly unemployed worker ‘at a time when otherwise [they] would have nothing to spend,’ serving to maintain the recipient at subsistence levels without the necessity of [their] turning to welfare or private charity.” *Ca. Dep’t of Human Res. v. Java*, 402 U.S. 121, 131-32 (1971).

28.

The courts must “liberally construe and apply [employment security laws] in the light of the public policy of this State,” and “shall be guided by the fact that the unemployment compensation law is intended to provide some income for persons who are, without fault of their own, temporarily out of employment.” *Dalton Brick*

& Title Co. v. Huiet, 102 Ga. App. 221, 223 (1960) (quoting *Young v. Bureau of Unemployment Comp.*, 63 Ga. App. 130, 135 (1940)).

***Georgia Law Requires “Prompt” Administration
of Unemployment Insurance Benefits***

29.

Georgia law requires that the administration of the unemployment benefits process be taken promptly. *See, e.g.*, O.C.G.A. § 34-8-192(a) (requiring prompt determination of benefits); *id.* § 34-8-192(d) (requiring prompt payment of benefits); Ga. Comp. R. & Regs. 300-2-5-.02(2)(a) (requiring prompt appeals).

30.

Prompt determinations, payments, and appeals are necessary to ensure that unemployment benefits serve their statutory purpose of replacing lost income to avoid economic hardship. *See* § 34-8-192(a), (d);); Ga. Comp. R. & Regs. 300-2-5-.02(2)(a).

***The Law Specifically Requires Prompt
Initial Determinations, Payments, and Appeals***

31.

To qualify for paid benefits in Georgia, an individual must meet the following requirements:

- sufficient insured wages—the claimant must have earned enough insured wages during the base period to qualify for benefits. The base period is the

first four of the last five completed calendar quarters at the time the claimant files their claim;

- job separation from claimant’s last employer due to no fault of their own;
- proof of claimant’s lawful presence in the United States;
- and the claimant must be able, available, and actively searching for suitable work, although this requirement was suspended during the pandemic in March 2020.²¹

32.

After a claimant submits their application, the GDOL reviews and processes the application. An Unemployment Insurance Benefit Determination—also known as a monetary determination—is mailed to the claimant advising the claimant if they have enough insured wages to establish a claim. This notice is not yet an approval to receive benefits. This notice informs the claimant of their potential weekly benefit amount and the number of weeks allowed.²²

33.

A notice of claim filing and request for separation information are then sent to the last employer for whom the claimant has worked and from whom the claimant was separated.²³

²¹ Handbook at 4.

²² *Id.* at 11

²³ *Id.*

34.

A claimant then begins to claim benefits and is required to submit their work search record each week.²⁴

35.

The GDOL reviews the claimant's claim for eligibility based on the reason for separation from their most recent employer and on the claimant's availability to work.²⁵

36.

A claimant must claim at least one week of benefits for the GDOL to review their claim.²⁶

37.

The claimant will be contacted only if additional information is needed.²⁷

38.

A Claim's Examiner's Determination—also known as a non-monetary determination—is mailed to the claimant informing them if benefits are allowed or denied.²⁸

²⁴ *Id.* at 12

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

39.

This initial determination of a claim “shall be made promptly.” *See* O.C.G.A. § 34-8-192(a).

40.

According to the GDOL’s own handbook, claimants must call the GDOL customer service immediately if they have not received an eligibility determination from the claims examiner within 19 days of claiming a week of benefits.²⁹

41.

If a claimant is approved for unemployment benefits by a claims examiner, the GDOL shall pay the claimant “promptly.” O.C.G.A. § 34-8-192(d).

42.

According to the GDOL’s own handbook, this means benefit “payments will be released within 24-48 hours of the Claims Examiner’s Determination being mailed to [the claimant].”³⁰

43.

If a claimant receives an unfavorable decision from the claims examiner, the claimant must file an appeal with the Appeals Tribunal within 15 days of issuance of the decision. O.C.G.A. § 34-8-220. Appeal hearings challenging the initial

²⁹ *Id.* at 12.

³⁰ *Id.*

determination “*shall* be scheduled *promptly*.” Ga. Comp. R. & Regs. 300-2-5-.02(2)(a) (emphasis added).

***The GDOL Has Utterly Failed to Comply with the Law,
Subjecting Plaintiffs and Class Members to Extreme Delays***

44.

Despite the “prompt” processes mandated by Georgia statutes, regulations, and policy, Defendants are failing to act or perform in a prompt manner, which has caused Plaintiffs and Class Members to experience extreme delays—for months at a time—at every step of the claims process.

45.

In the last quarter of 2020, Georgia had only completed 12% of non-monetary determinations within 21 days, ranking 40th in the nation, dropping to only 10% in the first quarter of 2021.³¹ In the last quarter of 2020, Georgia’s pending lower authority appeals had an average wait of 217.8 days, the second longest in the entire nation, increasing to 256.4 days in the first quarter of 2021.³² Other state’s successes

³¹ U.S. Dep’t of Labor, *State Rankings of Core Measures*, available at <https://oui.doleta.gov/unemploy/ranking.asp> (last visited March 23, 2021) (select “nonmonetary Determinations in 21 days” and starting quarter October 2020 and ending quarter December 2020).

³² *Id.* (select “Average Age of Pending Lower authority Appeals” and starting quarter October 2020 and ending quarter December 2020).

demonstrate that the GDOL’s failures need not have occurred in the first place and certainly need not continue.³³

46.

Moreover, Defendant GDOL Commissioner Butler admitted that only about 15 percent of the people who call the GDOL get through to someone who can help.³⁴

Certain Plaintiffs and Countless Other Individuals Failed to Receive A Prompt Benefits Determination—And They Are Still Waiting

47.

Plaintiff Johnson, Plaintiff Shaw, and Plaintiff Does 1-3 were denied a prompt initial determination and have still not received a determination (hereinafter the “Prompt Determination Plaintiffs”).

48.

Plaintiff Chelsea Shaw is a new mother, caring for her 10-month-old infant, as well as her younger sister. Before the pandemic, Plaintiff Shaw worked at a gas station and had to stop working due to complications with her pregnancy. Plaintiff Shaw filed for state unemployment benefits on or about December 2019, and never heard back from the GDOL.

³³ *Id.*

³⁴ Rebecca Lindstrom and Lindsey Basye, *Despite record overtime hours, 85% of callers still can’t get through to Ga. Department of Labor*, 11Alive, Apr. 14 2021, <https://www.11alive.com/article/news/investigations/the-reveal/georgia-department-of-labor-overtime-and-unanswered-calls/85-1c39ebcf-06a2-4c30-b807-6764253859fa>.

49.

Plaintiff Shaw filed again for unemployment benefits on or about February 2020, but was locked out of her account in the GDOL online system. She repeatedly called the GDOL, with little success of reaching someone; if she did reach someone, she would get repeatedly transferred and was provided no answers on the status of her claim.

50.

Plaintiff Shaw has never received a determination on her claim since she filed over a year ago. She has struggled to pay for everyday essentials for herself and her family, and has had to rely on the income of her husband, as well as food stamps and other state-provided benefits.

51.

Plaintiff Danielle Johnson worked at a Kaiser Permanente urgent care clinic until she was diagnosed with COVID at the beginning of 2021 while she was pregnant. She had to leave her job and she filed a claim for unemployment on or about March 1, 2021. Plaintiff Johnson has been verifying payments on a weekly basis since that time.

52.

The GDOL has failed to provide any eligibility determination to Plaintiff Johnson. Plaintiff Johnson has tried to call the GDOL repeatedly, has sent emails,

and has even reached out to her local and state representatives for assistance, all to no avail. Her determination remains pending.

Certain Plaintiffs and Countless Other Individuals Failed to Receive Prompt Payments of Their Benefits—And They Are Still Waiting

53.

Plaintiff Thompson and Plaintiff Does 4-6 were denied prompt payment of benefits after their initial determination, and have still not received payment of their benefits (hereinafter the “Prompt Payment Plaintiffs”).

54.

Plaintiff Gereline Thompson works for the Burke County Board of Education and has worked there since 2018. She applied for benefits when Burke County schools shut down due to the pandemic. The GDOL mailed her Unemployment Insurance Benefit Determination on or about June 4, 2020, informing Plaintiff Thompson that her claim was effective March 29, 2020. Plaintiff Thompson also received her Claims Examiner’s Determination, which stated that she qualified to be paid unemployment benefits. She has yet to receive any payments due to her. Plaintiff Thompson has consistently tried to get in touch with someone at the GDOL. She has tried calling and tried to reach someone through the GDOL website, to no avail.

Certain Plaintiffs and Countless Other Individuals Failed to Receive Prompt Appeals—And They Are Still Waiting

55.

Plaintiff Von King and Plaintiff Does 7-9 were denied a prompt appeal, and still have not received a hearing (hereinafter the “Prompt Appeal Plaintiffs”).

56.

Plaintiff King worked at Two Men and a Truck. She is a mother of a two-year-old, and she recently welcomed her second child. When the pandemic hit, her two-year-old son was left without daycare.

57.

Plaintiff King—who was pregnant with her second child at the time—brought her son to work with her until her son’s doctor recommended that her son not be out in public due to health concerns. Plaintiff King had to leave her job in order to take care of her child.

58.

Plaintiff King applied for benefits on or about May 2020, and filed a timely appeal on or about August, 2020. The GDOL has failed to schedule her appeal in over 13 months.

59.

Without necessary Unemployment Insurance benefits, countless Georgians cannot pay for housing, utilities, food, or medical care, leaving them in financially

devastating situations. Thus, the level of urgency among underemployed and long-term unemployed Georgians, who are unable to support themselves and their families, remains high.³⁵

60.

Accordingly, notwithstanding their clear “promptness” duties under Georgia law, Defendants have failed to ensure that eligibility for unemployment benefits is promptly determined, eligible benefits are promptly paid, and appeal hearings are promptly scheduled for unemployed and underemployed Georgia claimants.

CLASS ACTION ALLEGATIONS

61.

Plaintiffs bring this action under O.C.G.A. § 9-11-23 on behalf of themselves and three separate classes of similarly situated people.

The Prompt Determination Class

62.

The Prompt Determination Plaintiffs seek to certify the following class:

All individuals who (a) have been partially or totally unemployed between March 1, 2020, and the present; (b) have applied for unemployment benefits distributed by the Georgia Department of Labor; (c) did not receive an initial determination

³⁵ See Khalfani; *supra* *letter*. 2; Aguilar, *supra* n.2; Quinn & Kempner, *supra* n.2.

of eligibility within four weeks of their application; and (d) are still awaiting an initial determination.

63.

This Prompt Determination Class satisfies the requirements of O.C.G.A. § 9-11-23 under subsections (a) and (b)(1)-(3) for the following reasons:

64.

Numerosity: The Class is so numerous that joinder of all members of the Class is impracticable. Plaintiffs are unable to allege at this time the exact number of Class Members; however, Plaintiffs believe that there are at minimum tens of thousands of Class Members. Plaintiffs believe that Defendant's records maintained in the ordinary course of business will readily reveal the exact number of Class Members.

65.

Commonality: Common questions of law and fact predominate in this action. The central questions in this dispute are applicable to all Class Members, including, for example:

1. the meaning and enforceability of the promptness requirement in O.C.G.A. § 34-8-192(a);
2. whether the GDOL's common policies and practices have violated the promptness requirement in O.C.G.A. § 34-8-193(a);

3. whether the GDOL's common policies and practices, and the resulting delay, constitute a violation of the Class Members' due process rights and thus a violation of the U.S. Constitution and 42 U.S.C. § 1983; and
4. the appropriate injunctive and declaratory relief to remedy the Defendants' failures.

66.

Typicality: The Prompt Determination Plaintiffs' claims are typical of the other members of the Class, as Plaintiffs and other members of the Class suffered the same type of harm – i.e. a delay in their initial determination, and they are all subject to the same uniform policies and practices related to this delay.

67.

Adequacy: Plaintiffs will fairly and adequately represent and protect the interests of the Class, and have retained counsel competent and experienced in complex class actions. Plaintiffs are members of the Class, have no interest antagonistic to any other members of the Class, and Defendants have no defense unique to any individual Plaintiffs, as Plaintiffs do not seek a particular outcome for any individual applicant based on that applicant's situation. Rather, Plaintiffs seek relief which would end unreasonable delays so that all Class Members will have access to a system that delivers prompt decisions.

68.

This Prompt Determination Class meets the requirement of § 9-11-23(b)(1) in that prosecution of separate actions by the individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct by the GDOL. Additionally, the prosecution of separate actions by individual members of the Class would create the risk of adjudications with respect to individual members of the Class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

69.

This Prompt Determination Class meets the requirement of O.C.G.A. § 9-11-23(b)(2) in that Defendants have acted or failed to act on grounds that apply generally to the Class, so that final injunctive or declaratory relief is appropriate respecting the Class as a whole. The GDOL has engaged in a common course of conduct applicable to all Class Members, and Plaintiffs seek an order directing the GDOL to change its conduct as it relates to all Class Members.

70.

In addition, this Prompt Determination Class meets the requirement of § 9-11-23(b)(3) in that the questions of law or fact common to the members of the Class

predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

The Prompt Payment Class

71.

The Prompt Payment Plaintiffs seek to certify the following class:

All individuals who (a) have been partially or totally unemployed between March 1, 2020, and the present; (b) have applied for unemployment benefits distributed by the Georgia Department of Labor; (c) received a determination that they were eligible; (d) did not receive payments within four weeks of their application; and (e) are still awaiting payment.

72.

This Prompt Payment Class satisfies the requirements of O.C.G.A. § 9-11-23 under sections (a) and(b)(1)-(3), for the following reasons:

73.

Numerosity: The Class is so numerous that joinder of all members of the Class is impracticable. Plaintiffs are unable to allege at this time the exact number of Class Members; however, Plaintiffs believe that there are at minimum tens of thousands of Class Members. Plaintiffs believe that Defendant's records maintained in the ordinary course of business will readily reveal the exact number of Class Members. § 9-11-23(a)(1).

74.

Commonality: Common questions of law and fact predominate in this action.

The central questions in this dispute are applicable to all Class Members, including, for example:

1. the meaning and enforceability of the promptness requirement in O.C.G.A. § 34-8-192(d);
2. whether the GDOL's common policies and practices have violated the promptness requirement in O.C.G.A. § 34-8-192(d);
3. whether the GDOL's common policies and practices, and the resulting delay, constitute a violation of the Class Member's due process rights and thus a violation of the U.S. Constitution and 42 U.S.C. § 1983;
4. whether the Class Members are entitled to damages; and
5. the appropriate injunctive and declaratory relief to remedy the GDOL's failures.

§ 9-11-23(a)(2).

75.

Typicality: The Prompt Payment Plaintiffs' claims are typical of the other members of the Class, as Plaintiffs and other members of the Class suffered the same type of harm – i.e. a delay in payments to which they are entitled, and they are all

subject to the same uniform policies and practices related to this delay. ¶ 9-11-23(a)(3).

76.

Adequacy: Plaintiffs will fairly and adequately represent and protect the interests of the Class, and have retained counsel competent and experienced in complex class actions. Plaintiffs are members of the Class, have no interest antagonistic to any other members of the Class, and Defendant has no defense unique to any individual Plaintiffs as Plaintiffs do not seek a particular outcome for any individual applicant based on that applicant's situation. Rather, Plaintiffs seek relief which would end unreasonable delays so that all Class Members will have access to a system that delivers prompt payments. ¶ 9-11-23(a)(4).

77.

The Prompt Payment Class meets the requirement of § 9-11-23(b)(1) in that prosecution of separate actions by the individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct by the GDOL. Additionally, the prosecution of separate actions by individual members of the Class would create the risk of adjudications with respect to individual members of the Class which would as a practical matter be dispositive of the interests of the other

members not parties to the adjudications or substantially impair or impede their ability to protect their interests, given, for example, that they seek injunctive relief.

78.

The Prompt Payment Class also meets the requirements of § 9-11-23(b)(2) because Defendant has acted or failed to act on grounds that apply generally to the Class, so that final injunctive or declaratory relief is appropriate respecting the Class as a whole. The GDOL has engaged in a common course of conduct applicable to all Class Members, and Plaintiffs seek an order directing the GDOL to change its conduct as it relates to all Class Members.

79.

In addition, this Prompt Payment Class meets the requirement of § 9-11-23(b)(3) in that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

The Prompt Appeal Class

80.

The Prompt Appeal Plaintiffs seek to certify the following class:

All individuals who (a) have been partially or totally unemployed between March 1, 2020, and the present; (b) have applied for unemployment benefits distributed by the Georgia

Department of Labor; (c) received an initial determination that they were ineligible; (d) filed a timely appeal; (e) did not receive an appellate hearing and determination within four weeks of their initial determination; and (f) are still awaiting a hearing or determination.

81.

This Prompt Appeal Class satisfies the requirements of O.C.G.A. § 9-11-23 under sections (a) and (b)(1)-(3) for the following reasons:

82.

Numerosity: The Class is so numerous that joinder of all members of the Class is impracticable. Plaintiffs are unable to allege at this time the exact number of Class Members; however, Plaintiffs believe that there are at minimum tens of thousands of Class Members. Plaintiffs believe that Defendant's records maintained in the ordinary course of business will readily reveal the exact number of Class Members.

83.

Commonality: Common questions of law and fact predominate in this action. The central questions in this dispute are applicable to all Class Members, including, for example:

1. the meaning and enforceability of the promptness requirement under Ga. Comp. R. & Regs. 300-2-5-.02(2)(a);
2. whether GDOL's common policies and practices have violated the promptness requirement under Ga. Comp. R. & Regs. 300-2-5-.02(2)(a);

3. whether the GDOL's common policies and practices, and the resulting delay, constitute a violation of the Class Member's due process rights and thus a violation of the U.S. Constitution and 42 U.S.C. § 1983;
4. whether the Class Members are entitled to damages as a result of the due process violation; and
5. the appropriate injunctive and declaratory relief to remedy the GDOL's failures.

84.

Typicality: The Prompt Appeal Plaintiffs' claims are typical of the other members of the Class, as Plaintiffs and other members of the Class suffered the same type of harm – i.e. a delay in the scheduling of an appeal hearing to which they are entitled, and they are all subject to the same uniform policies and practices related to this delay.

85.

Adequacy: Plaintiffs will fairly and adequately represent and protect the interests of the Class, and have retained counsel competent and experienced in complex class actions. Plaintiffs are members of the Class, have no interest antagonistic to any other members of the Class, and Defendant has no defense unique to any individual Plaintiffs as Plaintiffs do not seek a particular outcome for any individual applicant based on that applicant's situation. Rather, Plaintiffs seek relief

which would end unreasonable delays so that all Class Members will have access to a system that delivers prompt payments.

86.

The Prompt Appeal Class meets the requirement of § 9-11-23(b)(1) in that prosecution of separate actions by the individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct by the GDOL. Additionally, the prosecution of separate actions by individual members of the Class would create the risk of adjudications with respect to individual members of the Class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

87.

The Prompt Appeal Class also meet the requirements of § 9-11-23(b)(2) because Defendants have acted or failed to act on grounds that apply generally to the Class, so that final injunctive or declaratory relief is appropriate respecting the Class as a whole. The GDOL has engaged in a common course of conduct applicable to all Class Members, and Plaintiffs seek an order directing the GDOL to change its conduct as it relates to all Class Members.

88.

In addition, this Prompt Appeals Class meets the requirement of § 9-11-23(b)(3) in that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

COUNT ONE

**FAILURE TO MAKE PROMPT INITIAL DETERMINATIONS
UNDER O.C.G.A. § 34-8-192(a) AND GA. CONST. ART. VI § 2**

**(On Behalf of the Prompt Determination Plaintiffs and
Prompt Determination Class)**

89.

Plaintiffs expressly incorporate by reference and re-allege as if set forth fully herein the preceding allegations of this complaint, and set forth the following count.

90.

Georgia law provides that an initial determination of a claim “*shall* be made *promptly*.” O.C.G.A. § 34-8-192(a) (emphasis added).

91.

Despite the requirement for a prompt determination, and despite Named Plaintiffs Shaw and Johnson and Prompt Determination Class Members’ desperate need for assistance, Defendants have failed to provide prompt determinations and

Plaintiffs Shaw and Johnson and Prompt Determination Class Members have experienced extreme delays, often waiting months at a time.

92.

As a result of the Defendants' conduct, the Prompt Determination Plaintiffs and the Prompt Determination Class are entitled to a declaration under Ga. Const. Art. VI § 2 that Defendants conduct violates O.C.G.A. § 34-8-192(a).

93.

The Prompt Determination Plaintiffs and the Prompt Determination Class are entitled to an injunction ordering that the Defendants take all necessary actions to comply with the promptness requirement of O.C.G.A. § 34-8-192(a).

94.

This injunctive relief includes, at a minimum, (a) an injunction to end Defendants' violations of § 34-8-192(a), (b) an injunction to compel the Defendants to issue claims examiner's determinations to Prompt Determination Plaintiffs and Prompt Determination Class Members within three weeks of any order granting an injunction; and (c) any further relief that equity and justice require in order to ensure that the Defendants comply with the law, which could include, *inter alia*, appropriate staffing, training, computer software, monitoring and public reporting of determination processes and results.

COUNT TWO

VIOLATION OF FEDERAL DUE PROCESS CONSTITUTIONAL RIGHTS, PURSUANT TO 42 U.S.C. § 1983 AND THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION

(On Behalf of the Prompt Determination Plaintiffs and Prompt Determination Class)

95.

Plaintiffs expressly incorporate by reference and re-allege as if set forth fully herein the preceding allegations of this complaint, and set forth the following count.

96.

The Prompt Determination Plaintiffs and the Prompt Determination Class have a protected property interest, *inter alia*, in their right to a prompt determination guaranteed by O.C.G.A. § 34-8-192(a).

97.

Defendants' conduct has deprived the Prompt Determination Plaintiffs and the Prompt Determination Class of their protected rights to prompt determination without due process of law, in violation of the guarantees of the United States Constitution.

98.

The Prompt Determination Plaintiffs and the Prompt Determination Class are entitled to damages under 42 U.S.C. § 1983 as a result of this violation of their rights.

99.

The Prompt Determination Plaintiffs and the Prompt Determination Class are also entitled under 42 U.S.C. § 1983 to: (a) an injunction prohibiting the continued deprivation of their due process rights as well as an injunction compelling Defendants' issuance of prompt payments to Prompt Payment Plaintiffs and the Prompt Payment Class within three weeks of an order granting an injunction, and (b) declaratory relief declaring such failures a violation of the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

COUNT THREE

**FAILURE TO MAKE PROMPT PAYMENTS UNDER
O.C.G.A. § 34-8-192(d) AND GA. CONST. ART. VI § 2**

(On Behalf of the Prompt Payment Plaintiffs and Prompt Payment Class)

100.

Plaintiffs expressly incorporate by reference and re-allege as if set forth fully herein the preceding allegations of this complaint, and set forth the following count.

101.

Georgia law provides that Defendants shall pay a claimant "promptly."
O.C.G.A. § 34-8-192(d).

102.

Despite the requirement for a prompt payment, and despite Named Plaintiff Thompson's and Prompt Payment Class Members' desperate need for assistance, Defendants have failed to provide prompt payments and Named Plaintiff Thompson and the Prompt Payments Class Members have experienced extreme delays, often waiting months at a time for payments.

103.

As a result of Defendants' conduct, the Prompt Payment Plaintiffs and the Prompt Payment Class are entitled to a declaration under Ga. Const. Art. VI § 2 that Defendants' conduct violates O.C.G.A. § 34-8-192(d).

104.

The Prompt Payment Plaintiffs and the Prompt Payment Class are entitled to an injunction under Ga. Const. Art. VI § 2 compelling Defendants to take all necessary actions to comply with the promptness requirement of O.C.G.A. § 34-8-192(d).

105.

This injunctive relief includes, at a minimum, (a) an injunction to end Defendants' violations of Georgia's statutory law, (b) an injunction to compel the Defendants to make payments to the Prompt Payment Plaintiffs and Prompt Payment Class Members within three weeks of an order issuing an injunction; and (c) any

further relief that equity and justice require in order to ensure that Defendants comply with the law, which could include, *inter alia*, appropriate staffing, training, computer software, monitoring and public reporting of payment processes and results.

COUNT FOUR

VIOLATION OF FEDERAL DUE PROCESS CONSTITUTIONAL RIGHTS, PURSUANT TO 42 U.S.C. § 1983 AND THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION

(On Behalf of the Prompt Payment Plaintiffs and Prompt Payment Class)

106.

Plaintiffs expressly incorporate by reference and re-allege as if set forth fully herein the preceding allegations of this complaint, and set forth the following count.

107.

The Prompt Payment Plaintiffs and the Prompt Payment Class have a protected property interest, *inter alia*, in their right to prompt payment of benefits guaranteed by O.C.G.A. § 34-8-192(d).

108.

Defendants' conduct has denied the Prompt Payment Plaintiffs and the Prompt Payment Class of their protected rights without due process of law, in violation of the guarantees of the United States Constitution.

109.

The Prompt Payment Plaintiffs and the Prompt Payment Class are entitled to damages under 42 U.S.C. § 1983 as a result of this violation of their rights.

110.

The Prompt Payment Plaintiffs and the Prompt Payment Class are also entitled to declaratory relief and an injunction under 42 U.S.C. § 1983 prohibiting the continued deprivation of their due process rights as well as an injunction compelling Defendants' issuance of prompt payments to Prompt Payment Plaintiffs and the Prompt Payment Class within three weeks of an order granting an injunction

COUNT FIVE

FAILURE TO PROVIDE PROMPT APPEALS UNDER GA. COMP. R. & REGS. 300-2-5-.02(2)(A) AND GA. CONST. ART. VI § 2

(On Behalf of the Prompt Appeal Plaintiffs and Prompt Appeal Class)

111.

Plaintiffs expressly incorporate by reference and re-allege as if set forth fully herein the preceding allegations of this complaint, and set forth the following count.

112.

An appeal hearing challenging an initial determination “*shall* be scheduled *promptly*.” Ga. Comp. R. & Regs. 300-2-5-.02(2)(a) (emphasis added).

113.

Despite the requirement of a promptly scheduled appeal hearing, and despite Named Plaintiff Thompson and Prompt Appeal Class Members' desperate need for assistance, Defendants have failed to provide prompt appeals and Named Plaintiff Thompson and the Prompt Appeal Class Members have experienced extreme delays, often waiting months at a time.

114.

As a result of Defendants' conduct, the Prompt Appeal Plaintiffs and the Prompt Appeal Class are entitled to a declaration under Ga. Const. Art. VI § 2 that Defendants' conduct violates Ga. Comp. R. & Regs. 300-2-5-.02(2)(a).

115.

The Prompt Appeal Plaintiffs and the Prompt Appeal Class are entitled to an injunction under Ga. Const. Art. VI § 2 compelling Defendants to take all necessary actions to comply with the promptness requirement of Ga. Comp. R. & Regs. 300-2-5-.02(2)(a).

116.

This injunctive relief includes, at a minimum, (a) an injunction to end Defendants' violations of Georgia's statutory law, (b) an injunction to compel the Defendants to ensure prompt appeals are scheduled for Prompt Appeal Plaintiffs and Prompt Appeal Class members, as well as Defendants' issuance of prompt appeal

hearings for Prompt Appeal Plaintiffs and Prompt Appeal Class Members within three weeks of an order issuing an injunction, and (c) any further relief that equity and justice require in order to ensure that the Defendants comply with the law, which could include, *inter alia*, appropriate staffing, training, monitoring and public reporting of appellate processes and results.

COUNT SIX

VIOLATION OF FEDERAL DUE PROCESS CONSTITUTIONAL RIGHTS, PURSUANT TO 42 U.S.C. § 1983 AND THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION

(On Behalf of the Prompt Appeal Plaintiffs and Prompt Appeal Class)

117.

Plaintiffs expressly incorporate by reference and re-allege as if set forth fully herein the preceding allegations of this complaint, and set forth the following count.

118.

The Prompt Appeal Plaintiffs and the Prompt Appeal Class have a protected property interest, *inter alia*, in their right to a prompt appeal under Ga. Comp. R. & Regs. 300-2-5-.02(2)(a).

119.

Defendants' conduct has denied the Prompt Appeal Plaintiffs and the Prompt Appeal Class of their protected rights without due process of law, in violation of the guarantees of the United States Constitution.

120.

The Prompt Appeal Plaintiffs and the Prompt Appeal Class are entitled to damages under 42 U.S.C. § 1983 as a result of this violation of their rights.

121.

The Prompt Appeal Plaintiffs and the Prompt Plaintiff Class are also entitled to declaratory relief and an injunction under 42 U.S.C. § 1983 prohibiting the continuing deprivation off their due process rights as well as an injunction compelling Defendants' scheduling of prompt appeal hearings for Prompt Appeal Plaintiffs and the Prompt Appeal Class within three weeks of an order granting an injunction.

Prayer for Relief

Wherefore, Plaintiffs respectfully request the Court to provide the following relief:

- A. Trial by jury on each issue so triable;
- B. Certification of each Class identified above;
- C. Judgment for the Plaintiffs and each Class on each count listed above;
- D. Declaratory Judgment for the Named Plaintiffs and each Class declaring that Defendants' conduct violates the law, as detailed in each Count listed above,

- E. Preliminary and Permanent injunctions requiring that Defendants take the steps necessary to comply with the law, as detailed in each Count listed above;
- F. All actual, exemplary and punitive damages, to which Plaintiffs and Class Members are entitled;
- G. Attorney's fees and costs for pursuing this Action; and
- H. Such other relief as justice may require.

Respectfully submitted, this 16th day of June, 2021

/s/ Jason J. Carter _____

Jason J. Carter

Ga. Bar No. 141669

Juliana Mesa

Ga. Bar No. 585087

**BONDURANT, MIXSON & ELMORE,
LLP**

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Georgia Bar No. 810206

The Southern Poverty Law Center

P.O. Box 1287

Decatur, Georgia 30031-1287

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Attorneys for Plaintiffs

General Civil and Domestic Relations Case Filing Information Form

Date: 6/17/2021 3:48 PM
Cathelene Robinson, Clerk

Superior or State Court of Fulton County

For Clerk Use Only	
Date Filed <u>6/17/2021</u> MM-DD-YYYY	Case Number <u>2021CV350906</u>

Plaintiff(s)

Defendant(s)

Von King, Danielle Johnson, Gereline Thompson, Chelsea Shaw, and Jane/John Doe 1-9,

State of Georgia, Georgia Department of Labor, and Commissioner Mark Butler, In His Official Capacity

Plaintiffs, on behalf of themselves and All others similarly situated,

Plaintiff's Attorney: Jason J. Carter State Bar Number 141669 Self-Represented

Check one case type and one sub-type in the same box (if a sub-type applies):

General Civil Cases

Automobile Tort

Civil Appeal

Contempt/Modification/Other Post-Judgment

Contract

Garnishment

General Tort

Habeas Corpus

Injunction/Mandamus/Other Writ

Landlord/Tenant

Medical Malpractice Tort

Product Liability Tort

Real Property

Restraining Petition

Other General Civil

Domestic Relations Cases

Adoption

Contempt

Non-payment of child support, medical support, or alimony

Dissolution/Divorce/Separate Maintenance/Alimony

Family Violence Petition

Modification

Custody/Parenting Time/Visitation

Paternity/Legitimation

Support – IV-D

Support – Private (non-IV-D)

Other Domestic Relations

Check if the action is related to another action pending or previously pending in this court involving some or all of the same: parties, subject matter, or factual issues. If so, provide a case number for each.

_____ Case Number

_____ Case Number

I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in OCGA § 9-11-7.1.

Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

_____ Language(s) Required

Do you or your client need any disability accommodations? If so, please describe the accommodation request.

IN THE SUPERIOR COURT OF FULTON COUNTY, GEORGIA

136 PRYOR STREET, ROOM C-103, ATLANTA, GEORGIA 30303

SUMMONS

Von King, Danielle Johnson, Gereline Thompson,

) Case 2021CV350906
) No.: _____

Chelsea Shaw, and Jane/John Doe 1-9

) JURY TRIAL DEMANDED

Plaintiffs, on Behalf of
Themselves and All Others
Similarly Situated

) (CLASS ACTION)

vs.

State of Georgia, Georgia Department of Labor,

And Commissioner Mark Butler, in His Official

Capacity

Defendant

TO THE ABOVE NAMED DEFENDANT(S):

Commissioner Mark Butler, In His Official Capacity
c/o Attorney General of Georgia
40 Capitol Square, S.W.
Atlanta, GA 30334

You are hereby summoned and required to file electronically with the Clerk of said Court at <https://efilega.tylerhost.net/ofswweb> (unless you are exempt from filing electronically) and serve upon plaintiff's attorney, whose name and address is:

Jason J. Carter, Esq., carter@bmelaw.com
Bondurant, Mixson & Elmore, LLP
1201 West Peachtree Street, Suite 3900
Atlanta, Georgia 30309

An answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service; unless proof of service of this complaint is not filed within five (5) business days of such service. Then time to answer shall not commence until such proof of service has been filed. **IF YOU FAIL TO DO SO, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

17th

This 16th day of June, 2021.

Honorable Cathelene "Tina" Robinson
Clerk of Superior Court

By Gracey Vaughn
Deputy Clerk

To defendant upon whom this petition is served:

This copy of complaint and summons was served upon you _____, 20____

Deputy Sherriff

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

**VON KING, DANIELLE JOHNSON,
GERELINE THOMPSON, CHELSEA
SHAW, and JANE/JOHN DOE 1-9,**

**Plaintiffs, on behalf
of themselves and all others
similarly situated,**

v.

**STATE OF GEORGIA,
GEORGIA DEPARTMENT OF LABOR,
and
COMMISSIONER MARK BUTLER, in his
official capacity,**

Defendants.

**CIVIL ACTION NO.
2021CV350906**

JURY TRIAL DEMANDED

(CLASS ACTION)

**PLAINTIFFS' NOTICE OF 30(B)(6) DEPOSITION TO DEFENDANTS STATE OF
GEORGIA AND/OR GEORGIA DEPARTMENT OF LABOR**

To: **Georgia Department of Labor and/or
State of Georgia**
c/o Bryan Webb
Deputy Attorney General
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia 30334
bwebb@law.ga.gov

Pursuant to O.C.G.A. §§ 9-11-30(b)(6) you are hereby required to appear for a deposition
as requested below:

1. Plaintiffs will take the deposition of the Georgia Department of Labor (“GDOL”) and/or the State of Georgia on the subject matters designated below on August 2, 2021 beginning at 10:00 a.m. The deposition will take place at the offices of

Bondurant, Mixson & Elmore, LLP, 1201 W. Peachtree St. NW, Suite 3900, Atlanta, GA 30309, and will continue from day to day until completed. This deposition will:

(a) take place before a duly authorized officer certified to administer oaths and take depositions, (b) be taken by stenographic and videographic means, and (c) be taken for the purpose of discovery and all other purposes authorized by law.

2. Said deposition is being taken pursuant to O.C.G.A. § 9-11-30(b)(6). The GDOL and/or the State of Georgia on GDOL's behalf is hereby notified that it must designate one or more of its qualified officers, directors, managing agents, members, employees, or other persons to testify on the State of Georgia's or the GDOL's behalf as to the topics listed on the attached **Exhibit A**.

/s/ Jason J. Carter _____

Jason J. Carter

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Attorneys for Plaintiffs

EXHIBIT A

DEFINITIONS

1. “**GDOL**,” “**you**” and “**your**” shall mean the State of Georgia or the Georgia Department of Labor and (a) any divisions or affiliates of the Georgia Department of Labor, and any of its officers, directors, employees, partners, agents or attorneys, and/or (b) any other entities or individuals that acted on your behalf in connection with the administration of the Unemployment Insurance program during the Time Period.
2. “**Time Period**” means January 1, 2020, to the present.
3. “**Applicant**” means any person who submitted an application for Unemployment Insurance, Pandemic Unemployment Assistance (“**PUA**”) or any other federal pandemic unemployment compensation program, including Federal Pandemic Unemployment Compensation and Pandemic Emergency Unemployment Compensation during the Time Period.
4. “**Application**” means any claim submitted with the Georgia Department of Labor for Unemployment Insurance, PUA or any other federal unemployment compensation program, including Federal Pandemic Unemployment Compensation and Pandemic Emergency Unemployment.

DEPOSITION TOPICS

1. A specific description of the records and data, including electronic records and data, that you keep with respect to each Applicant. By way of example only, this would include but not be limited to, the manner in which you keep information like Applicant names, date Application was submitted, date of Unemployment Insurance Benefit Determination, date of Claims Examiner’s Determination, date Applicant filed for an appeal, date(s) Applicant verified weekly payments, and date(s) payments were made.

2. For the Time Period, a specific description of:
 - a. (i) the policy and procedures that You use to make an initial determination regarding an Application, and if you contend that these policies and procedures do not apply uniformly to every Applicant, then (ii) the manner in which those policies and procedures differ from person to person.
 - b. (i) the policy and procedures that You use to process an Applicant's request for an appeal of an initial determination regarding an Application, including the scheduling of any appellate hearing and any final determination, and if you contend that these policies and procedures do not apply uniformly to every applicant, then (ii) the manner in which those policies and procedures differ from person to person.
 - c. (i) the policy and procedures that You use to make payments to those Applicants who have been determined to be eligible to receive benefits, and if you contend that these policies and procedures to not apply uniformly to every applicant, then (ii) the manner in which those policies and procedures differ from person to person.

3. For the Time Period, a specific description of the policies and procedures that you use to track individual Applicant's applications, appeals (if any), and payments (if any) from the time of the application until its final resolution.

4. For the Time Period, a specific description of the policies and procedures related to contact and communication between You and Applicants, such as, but not limited to, communication via hotlines, career centers, or any online portals. And, if you contend that these

policies and procedures do not apply uniformly to every Applicant, then the manner in which those policies and procedures differ from person to person.

5. For the Time Period, a specific description of the policies and procedures (if any) related to fraud prevention and identity verification of Applicants. And if you contend that these policies and procedures do not apply uniformly to every Applicant, then the manner in which those policies and procedures differ from person to person.

6. A specific description of the policies and procedures related to the GDOL's response to the COVID-19 pandemic and any changes in previously existing policies and procedures resulting from the COVID-19 pandemic. And, if you contend that these policies and procedures do not apply uniformly to every Applicant, then the manner in which those policies and procedures differ from person to person.

7. The specific design of any database that you use to maintain the records identified in Deposition Topic Numbers 1 and 3 and a data dictionary, legend or key sufficient to describe the database design, including but not limited to (a) the relationship between the database tables, (b) the identity of the various types of information stored in the database, and (c) the manner in which that information is stored.

CERTIFICATE OF SERVICE

I certify that, on July 1, 2021, I caused to be served the foregoing **PLAINTIFFS'**
NOTICE OF 30(B)(6) DEPOSITION TO DEFENDANTS STATE OF GEORGIA
AND/OR THE GEORGIA DEPARTMENT OF LABOR by hand delivery and email on the
following counsel of record:

Bryan Webb
Deputy Attorney General
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia 30334
bwebb@law.ga.gov

/s/ Jason J. Carter _____

Jason J. Carter

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

**VON KING, DANIELLE JOHNSON,
GERELINE THOMPSON,
CHELSEA SHAW, and JANE/JOHN
DOE 1-9,**

**Plaintiffs, on behalf
of themselves and all others
similarly situated,**

v.

**STATE OF GEORGIA,
GEORGIA DEPARTMENT OF
LABOR, and
COMMISSIONER MARK BUTLER,
in his official capacity,**

Defendants.

**CIVIL ACTION FILE
No. 2021-CV-350906**

JURY TRIAL DEMANDED

(CLASS ACTION

**NOTICE OF FILING ACKNOWLEDGMENT OF SERVICE AND
WAIVER OF PROCESS**

Plaintiffs, by and through their undersigned counsel, hereby file the Acknowledgment of Service and Waiver of Process of Defendants State of Georgia, Georgia Department of Labor and Commissioner Mark Butler (solely in his official capacity), dated July 2, 2021. A true and correct copy is attached hereto as Exhibit A.

Respectfully submitted, this 6th day of July, 2021.

/s/ Jason J. Carter

Jason J. Carter

Ga. Bar No. 141669

Juliana Mesa

Ga. Bar No. 585087

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2021, I caused the foregoing **NOTICE OF FILING ACKNOWLEDGMENT OF SERVICE AND WAIVER OF PROCESS** to be filed with the Clerk of Court using the EFile Georgia electronic filing system, which will automatically send email notification of such filing to all parties of record.

/s/ Jason J. Carter

Jason J. Carter

Ga. Bar No. 141669

EXHIBIT A

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

VON KING, DANIELLE JOHNSON,
GERELINE THOMPSON, CHELSEA
SHAW, and JANE/JOHN DOE 1-9,

Plaintiffs, on behalf
of themselves and all others
similarly situated,

v.

STATE OF GEORGIA,
GEORGIA DEPARTMENT OF LABOR,
and
COMMISSIONER MARK BUTLER, in his
official capacity,

Defendants.

CIVIL ACTION NO.
2021CV350906


JURY TRIAL DEMANDED

(CLASS ACTION)

ACKNOWLEDGMENT OF SERVICE AND WAIVER OF PROCESS

Through the undersigned Counsel, who is duly authorized to acknowledge service, Defendants State of Georgia, Georgia Department of Labor, and Commissioner Mark Butler (solely in his official capacity) hereby acknowledge service of Plaintiffs' Complaint and Summonses filed in this case. Defendants specifically reserve any and all defenses, except those relating to service and sufficiency of process.

This 2nd day of July, 2021.

By: 
Bryan Webb
Deputy Attorney General
Georgia Department of Law
40 Capitol Square SE
Atlanta, GA 30334
bwebb@law.ga.gov
(404) 458-3542
Attorney for Defendants

#3223352v1

Connie Cunningham

From: no-reply@efilingmail.tylertech.cloud
Sent: Friday, July 30, 2021 11:15 AM
To: Connie Cunningham
Subject: Filing Submitted for Case: 2021CV350906; Von King, Danielle Johnson, Gereline Thompson, Chelsea Shaw, and Jane/John Doe 1-9VS.State of Georgia, Georgia Department of Labor, and Commissioner Mark Butler; Envelope Number: 7982728

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Filing Submitted

Envelope Number: 7982728

Case Number: 2021CV350906

Case Style: Von King, Danielle Johnson, Gereline Thompson, Chelsea Shaw, and Jane/John Doe 1-9VS.State of Georgia, Georgia Department of Labor, and Commissioner Mark Butler



The filing below has been submitted to the clerk's office for review. Please allow 24 - 48 hours for clerk office processing.

Filing Details

Court	Fulton - Superior Court
Date/Time Submitted	7/30/2021 11:14 AM EST
Filing Type	ANSWER/RESPONSE
Filing Description	Defendants' Answer and Defenses
Type of Filing	EFileAndServe
Filed By	Connie Cunningham
Filing Attorney	Kimberly Lewis

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

VON KING, DANIELLE JOHNSON, *
GERELINE THOMPSON, *
CHELSEA SHAW, AND JANE/JOHN *
DOE 1-9 *

Plaintiffs, on behalf of *
Themselves and all others similarly *
Situated *

v. * Civil Action No.

2021CV350906

STATE OF GEORGIA, *
GEORGIA DEPARTMENT OF LABOR, *
And COMMISSIONER MARK BUTLER, *
In his official capacity, *

Defendants *

ANSWER AND DEFENSES

COME NOW the State of Georgia, the Georgia Department of Labor, and
Commissioner Mark Butler, in his official capacity, Defendants in the above-
referenced action, by and through their counsel of record, the Attorney General of
the State of Georgia, and file this Answer and Defenses to Plaintiffs' Complaint for
Declaratory and Injunctive Relief and Damages, and shows this court as follows:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Plaintiffs' Complaint is or may be subject to dismissal, in whole or in part, for lack of personal or subject matter jurisdiction.

THIRD DEFENSE

Plaintiffs' claims and remedies are barred, in whole or in part, by the applicable statute of limitations and/or laches.

FOURTH DEFENSE

Some or all of Plaintiffs' claims may be moot.

FIFTH DEFENSE

Plaintiffs are not entitled to punitive damages from Defendants.

SIXTH DEFENSE

Defendants Georgia Department of Labor and Mark Butler, in their official capacities, are not proper "persons" subject to suit under 42 U.S.C. §1983.

SEVENTH DEFENSE

Plaintiffs' claim for damages of any type is barred against Defendants.

EIGHTH DEFENSE

Plaintiffs' claims are barred by sovereign immunity.

NINTH DEFENSE

Plaintiffs' claims for due process violations are barred as Plaintiffs have an adequate remedy in state law.

TENTH DEFENSE

Plaintiff's class claims are barred to the extent that joinder of the members would be impracticable or that questions of law or fact are not common or that questions of law or fact common to the members of the purported class do not predominate over any questions affecting only individual members.

ELEVENTH DEFENSE

Defendants deny any allegation not expressly admitted herein.

Defendants reserve the right to raise any additional defenses allowed by law as evidence is discovered in pursuit of this litigation. Without waiving any of the foregoing defenses, Defendants respond to the specific numbered paragraphs of Plaintiff's Complaint as follows:

INTRODUCTION

The “Introduction” portion of Plaintiffs’ Complaint is a recitation of information that consists of legal argument and conclusory statements setting forth the alleged reason and purported basis for Plaintiffs’ Complaint and a statement of the relief sought by Plaintiffs. As such, no specific response is required by Defendants. To the extent that a response is required, Defendants deny the substance of the legal argument being made by Plaintiffs in the “Introduction” and further deny that Plaintiffs are entitled to any of the relief requested.

BACKGROUND

1.

Defendants agree that the pandemic affected Georgians in many ways. Defendants are without sufficient information to admit or deny the specific allegations contained in paragraph 1 of Plaintiffs’ Complaint. Therefore, the allegations are denied and Defendants demand proof of same.

2.

Defendants are without sufficient knowledge to admit or deny that the statistics set forth by Plaintiffs in paragraph 2 of Plaintiffs’ Complaint are accurate and cannot admit or deny the allegations as written. Therefore, Defendants deny the allegations as set forth and demand proof of same.

3.

Defendants are without sufficient knowledge to admit or deny that the statistics set forth by Plaintiffs in paragraph 3 of Plaintiffs' Complaint are accurate and cannot admit or deny the allegations as written. Therefore, Defendants deny the allegations as set forth and demand proof of same.

4.

Defendants admit that there have been delays in the unemployment benefits process experienced by some applicants. Defendants deny the allegations contained in paragraph 4 of Plaintiffs' Complaint.

5.

Defendants deny the allegations contained in paragraph 5 of Plaintiffs' Complaint.

6.

Defendants deny the allegations contained in paragraph 6 of Plaintiffs' Complaint.

7.

Defendants deny the allegations contained in paragraph 7 of Plaintiffs' Complaint.

8.

Defendants deny the allegations contained in paragraph 8 of Plaintiffs' Complaint.

9.

Defendants show that the statistical information presented by Plaintiffs in paragraph 9 of Plaintiffs' Complaint are accurate as reported by the website that is cited; however, Defendants deny that any of the statistical information cited is presented in its proper context as compared to the performance of other states, and further denies that Plaintiffs are entitled to any relief as requested.

10.

Defendants show that the statistical information presented by Plaintiffs in paragraph 10 of Plaintiffs' Complaint are accurate as reported by the website that is cited; however, Defendants deny that any of the statistical information cited is presented in its proper context as compared to the performance of other states, and further denies that Plaintiffs are entitled to any relief as requested.

11.

Defendants show that the statistical information presented by Plaintiffs in paragraph 11 of Plaintiffs' Complaint are accurate as reported by the website that

is cited; however, Defendants deny that any of the statistical information cited is presented in its proper context as compared to the performance of other states, and further denies that Plaintiffs are entitled to any relief as requested.

12.

Defendants show that the statistical information presented by Plaintiffs in paragraph 12 of Plaintiffs' Complaint are accurate as reported by the website that is cited; however, Defendants deny that any of the statistical information cited is presented in its proper context as compared to the performance of other states, and further denies that Plaintiffs are entitled to any relief as requested.

13.

Defendants show that the statistical information presented by Plaintiffs in paragraph 13 of Plaintiffs' Complaint are accurate as reported by the website that is cited; however, Defendants deny that any of the statistical information cited is presented in its proper context as compared to the performance of other states, and further denies that Plaintiffs are entitled to any relief as requested. Defendants further deny the last sentence of paragraph 13.

PARTIES

14.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 14 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

15.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 15 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

16.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 16 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

17.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 17 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

18.

Defendants deny that they may be served “by providing a copy of the complaint to the Attorney General of Georgia at 40 Capitol Square SW, Atlanta GA 30334” as alleged in paragraph 18 of Plaintiffs’ Complaint.

JURISDICTION AND VENUE

19.

Defendants admit that this Court has jurisdiction over this action; however, upon removal to federal court, this Court will no longer have jurisdiction.

20.

Defendants admit that venue is proper in this court; however, upon removal to federal court, Plaintiffs’ statement of proper venue will be moot.

STATEMENT OF FACTS COMMON TO THE CLASSES

Federal and State Unemployment Insurance Compensation in Georgia

21.

Defendants admit the allegations contained in paragraph 21 of Plaintiffs’ Complaint.

22.

Defendants admit the allegations contained in paragraph 22 of Plaintiffs' Complaint.

23.

Defendants deny the allegations contained in paragraph 23 of Plaintiffs' Complaint.

24.

Defendants deny the allegations contained in paragraph 24 of Plaintiffs' Complaint.

25.

Defendants admit the allegations contained in paragraph 25 of Plaintiffs' Complaint.

26.

The allegations contained in paragraph 26 of Plaintiffs' Complaint are a recitation of O.C.G.A. § 34-8-2 which statute speaks for itself. To the extent that the allegations contained in paragraph 26 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, such allegations are denied.

27.

The allegations contained in paragraph 27 of Plaintiffs' Complaint are a recitation of a passage in the holding of *Ca. Dep't of Human Res. v. Java*, 402 U.S. 121, 131-32 (1971) which passage and case holding speaks for itself. To the extent that the allegations contained in paragraph 27 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, such allegations are denied.

28.

The allegations contained in paragraph 28 of Plaintiffs' Complaint are a recitation of passages and the holdings in *Dalton Brick & Tile Co. v. Huiet*, 102 Ga. App. 221, 223 (1960) which passage and holding speaks for itself. To the extent that the allegations contained in paragraph 28 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, such allegations are denied.

*Georgia Law Requires "Prompt" Administration
of Unemployment Insurance Benefits¹*

¹ Defendants include the headings as set forth in Plaintiffs' Complaint for ease of reference to the Complaint. By using the headings, Defendants do not adopt or admit any agreement with Plaintiffs as to the contents of the headings and deny that Plaintiffs are entitled to any relief from Defendants.

29.

The allegations contained in paragraph 29 of Plaintiffs' Complaint appear to be an opinion and legal conclusion based upon a reading of O.C.G.A. § 34-8-192(a) and (d) and Ga. Comp. R. R. & Regs. 300-2-5-.02(2)(a). To the extent that the allegations in paragraph 29 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, the allegations are denied.

30.

The allegations contained in paragraph 30 of Plaintiffs' Complaint appear to be an opinion and legal conclusion based upon a reading of O.C.G.A. § 34-8-192(a) and (d) and Ga. Comp. R. R. & Regs. 300-2-5-.02(2)(a). To the extent that the allegations in paragraph 30 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, the allegations are denied.

*The Law Specifically Requires Prompt
Initial Determinations, Payments, and Appeals*

31.

The allegations contained in paragraph 31 of the Plaintiffs' Complaint are a recitation of a portion of the Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the

portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

32.

Defendants admit that the language in paragraph 32 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

33.

Defendants admit that the language in paragraph 33 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

34.

Defendants admit that the language in paragraph 34 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the

extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

35.

Defendants admit that the language in paragraph 35 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

36.

Defendants admit that the language in paragraph 36 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

37.

Defendants admit that the language in paragraph 37 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the

extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

38.

Defendants admit that the language in paragraph 38 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

39.

The allegations contained in paragraph 39 of the Plaintiffs' Complaint appear to be an opinion and legal conclusion based upon a reading of O.C.G.A. § 34-8-192(a). Also, Defendants show that the use of the word "promptly" by Plaintiffs in the paragraph, to the extent used to allege that they are entitled to the relief which they seek, is denied.

40.

Defendants deny the allegations contained in paragraph 40 of Plaintiffs' Complaint.

41.

The allegations contained in paragraph 41 of the Plaintiffs' Complaint appear to be an opinion and legal conclusion based upon a reading of O.C.G.A. § 34-8-192(d). Also, Defendants show that the use of the word "promptly" by Plaintiffs in the paragraph, to the extent used to allege that they are entitled to the relief which they seek, is denied.

42.

Defendants admit that the language in paragraph 42 of Plaintiffs' Complaint is accurate and according to information within Georgia Department of Labor *Unemployment Insurance Claimant Handbook* which speaks for itself. To the extent that the portion of the handbook is cited to support the allegation that Plaintiffs are entitled to the relief they seek, such allegations are denied.

43.

The allegations contained in paragraph 43 of Plaintiffs' Complaint appear to be an opinion and legal conclusion based upon a reading of O.C.G.A. § 34-8-220 and Ga. Comp. R. R. & Regs. 300-2-5-.02(2)(a). To the extent that the allegations in paragraph 43 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, the allegations are denied.

The GDOL Has Utterly Failed to Comply with the Law

Subjecting Plaintiffs and Class Members to Extreme Delays

44.

Defendants deny the allegations contained in paragraph 44 of Plaintiffs' Complaint.

45.

The allegations contained in paragraph 45 of the Plaintiffs' Complaint are largely Plaintiffs' recitation of information which they have derived from various publications. As such, Defendants deny the allegations as pled and demand proof of same. Further, to the extent that the allegations contained in paragraph 45 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, such allegations are denied, as much of the relief they seek has already been afforded to them. Defendants deny the last sentence of paragraph 45.

46.

The allegations contained in paragraph 46 appear to be derived from a news report which speaks for itself, and the accuracy of which the Defendants cannot admit or deny. Further, to the extent that the allegations contained in paragraph 46 of Plaintiffs' Complaint allege that Plaintiffs are entitled to the relief they seek, such allegations are denied.

*Certain Plaintiffs and Countless Other Individuals Failed to Receive
A Prompt Benefits Determination –And They Are Still Waiting*

47.

Defendants deny the allegations contained in paragraph 47 of Plaintiffs’
Complaint.

48.

Defendants are without sufficient information to admit or deny the
allegations in the first two sentences of paragraph 48 of Plaintiffs’ Complaint.
Therefore, those allegations are denied and Defendants demand proof of same.
Defendants deny the allegations contained in the last sentence of paragraph 48.

49.

Defendants are without sufficient knowledge to admit or deny the
allegations contained in paragraph 49 of Plaintiffs’ Complaint. Therefore, they are
denied and Defendants demand proof of same.

50.

Defendants are without sufficient knowledge to admit or deny the
allegations contained in paragraph 50 of Plaintiffs’ Complaint. Therefore, they are
denied and Defendants demand proof of same.

51.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 51 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

52.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 52 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

Certain Plaintiffs and Countless Other Individuals Failed to Receive Prompt Payments of Their Benefits—And They Are Still Waiting

53.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 53 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

54.

Defendants deny the allegations contained in the third and fourth sentences of paragraph 54 of Plaintiffs' Complaint. Defendant is without sufficient information to admit or deny the remaining allegations contained in paragraph 54

of Plaintiffs' Complaint. Therefore, those allegations are denied and Defendants demand proof of same.

Certain Plaintiffs and Countless Other Individuals Failed to Receive Prompt Appeals—And They Are Still Waiting

55.

Defendants deny the allegations contained in paragraph 55 of Plaintiffs' Complaint.

56.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 56 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

57.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 57 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

58.

Defendants are without sufficient identifying information for Plaintiff King to either admit or deny the allegations contained within Plaintiffs' Complaint.

Therefore, they are denied and Defendants demand proof of same.

59.

Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 59 of Plaintiffs' Complaint. Therefore, they are denied and Defendants demand proof of same.

60.

Defendants deny the allegations contained in paragraph 60 of Plaintiffs' Complaint.

CLASS ACTION ALLEGATIONS

61.

Paragraph 61 is a statement by Plaintiffs of the manner in which they bring their claim and pursuant to O.C.G.A. § 9-11-23. No response is required by Defendants. To the extent that a response is required, Defendants deny that Plaintiffs are entitled to any of the relief requested.

The Prompt Payment Class

62.

Defendants deny the allegations contained in paragraph 62 of Plaintiffs' Complaint and show that Plaintiffs are not entitled to nor should their purported class be certified by this Court.

63.

Defendants deny the allegations contained in paragraph 63 of Plaintiffs' Complaint.

64.

Defendants deny the allegations contained in paragraph 64 of Plaintiffs' Complaint.

65.

Defendants deny the allegations contained in paragraph 65 of Plaintiffs' Complaint.

66.

Defendants deny the allegations contained in paragraph 66 of Plaintiffs' Complaint.

67.

Defendants deny the allegations contained in paragraph 67 of Plaintiffs' Complaint.

68.

Defendants deny the allegations contained in paragraph 68 of Plaintiffs' Complaint.

69.

Defendants deny the allegations contained in paragraph 69 of Plaintiffs' Complaint.

70.

Defendants deny the allegations contained in paragraph 70 of Plaintiffs' Complaint.

The Prompt Payment Class

71.

Defendants deny the allegations contained in paragraph 71 of Plaintiffs' Complaint and show that Plaintiffs are not entitled to nor should their purported class be certified by this Court.

72.

Defendants deny the allegations contained in paragraph 72 of Plaintiffs' Complaint.

73.

Defendants deny the allegations contained in paragraph 73 of Plaintiffs' Complaint.

74.

Defendants deny the allegations contained in paragraph 74 of Plaintiffs' Complaint.

75.

Defendants deny the allegations contained in paragraph 75 of Plaintiffs' Complaint.

76.

Defendants deny the allegations contained in paragraph 76 of Plaintiffs' Complaint.

77.

Defendants deny the allegations contained in paragraph 77 of Plaintiffs' Complaint.

78.

Defendants deny the allegations contained in paragraph 78 of Plaintiffs' Complaint.

79.

Defendants deny the allegations contained in paragraph 79 of Plaintiffs' Complaint.

The Prompt Appeal Class

80.

Defendants deny the allegations contained in paragraph 80 of Plaintiffs' Complaint and show that Plaintiffs are not entitled to nor should their purported class be certified by this Court.

81.

Defendants deny the allegations contained in paragraph 81 of Plaintiff's Complaint.

82.

Defendants deny the allegations contained in paragraph 82 of Plaintiffs' Complaint.

83.

Defendants deny the allegations contained in paragraph 83 of Plaintiffs' Complaint.

84.

Defendants deny the allegations contained in paragraph 84 of Plaintiffs' Complaint.

85.

Defendants deny the allegations contained in paragraph 85 of Plaintiffs' Complaint.

86.

Defendants deny the allegations contained in paragraph 86 of Plaintiffs' Complaint.

87.

Defendants deny the allegations contained in paragraph 87 of Plaintiffs' Complaint.

88.

Defendants deny the allegations contained in paragraph 88 of Plaintiffs' Complaint.

COUNT ONE

FAILURE TO MAKE PROMPT INITIAL DETERMINATIONS
UNDER O.C.G.A. § 34-8-192(a) AND GA. CONST. ART. VI § 2

(on behalf of the Prompt Determination Plaintiffs and
Prompt Determination Class)

89.

Paragraph 89 is a statement that Plaintiffs' incorporate their previous paragraphs into Count One.

90.

Defendants admit that the language cited appears in O.C.G.A. § 34-8-192(a). Defendants are not required to, nor do they, adopt any interpretation of the term "prompt" as advanced by Plaintiffs. Further, Defendants deny that Plaintiffs are entitled to any relief requested.

91.

Defendants deny the allegations contained in paragraph 91 of Plaintiffs' Complaint.

92.

Defendants deny the allegations contained in paragraph 92 of Plaintiffs' Complaint.

93.

Defendants deny the allegations contained in paragraph 93 of Plaintiffs' Complaint.

94.

Defendants deny the allegations contained in paragraph 94 of Plaintiffs' Complaint.

COUNT TWO

VIOLATION OF FEDERAL DUE PROCESS CONSTITUTIONAL RIGHTS, PURSUANT TO 42 U.S.C. § 1983 AND THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION

(On behalf of the Prompt Determination Plaintiffs and Prompt Determination Class)

95.

Paragraph 95 is a statement that Plaintiffs' incorporate their previous paragraphs into Count Two.

96.

Defendants deny the allegations contained in paragraph 96 of Plaintiffs' Complaint.

97.

Defendants deny the allegations contained in paragraph 97 of Plaintiffs' Complaint.

98.

Defendants deny the allegations contained in paragraph 98 of Plaintiffs' Complaint.

99.

Defendants deny the allegations contained in paragraph 99 of Plaintiffs' Complaint.

COUNT THREE

FAILURE TO MAKE PROMPT PAYMENTS UNDER
O.C.G.A. § 34-8-192(d) AND GA. CONST. ART. VI § 2

100.

Paragraph 100 is a statement that Plaintiffs' incorporate their previous paragraphs into Count Three.

101.

Defendants admit that the language cited appears in O.C.G.A. § 34-8-192(d). Defendants are not required to, nor do they, adopt any interpretation of the term "prompt" as advanced by Plaintiffs. Further, Defendants deny that Plaintiffs are entitled to any relief requested.

102.

Defendants deny the allegations contained in paragraph 102 of Plaintiffs' Complaint.

103.

Defendants deny the allegations contained in paragraph 103 of Plaintiffs' Complaint.

104.

Defendants deny the allegations contained in paragraph 104 of Plaintiffs' Complaint.

105.

Defendants deny the allegations contained in paragraph 105 of Plaintiffs' Complaint.

COUNT FOUR

VIOLATION OF FEDERAL DUE PROCESS CONSTITUTIONAL RIGHTS, PURSUANT TO 42 U.S.C. § 1983 AND THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION

(On behalf of the prompt payment Plaintiffs and Prompt Payment Class)

106.

Paragraph 106 is a statement that Plaintiffs' incorporate their previous paragraphs into Count Four.

107.

Defendants deny the allegations contained in paragraph 107 of Plaintiffs' Complaint.

108.

Defendants deny the allegations contained in paragraph 108 of Plaintiffs' Complaint.

109.

Defendants deny the allegations contained in paragraph 109 of Plaintiffs' Complaint.

110.

Defendants deny the allegations contained in paragraph 110 of Plaintiffs' Complaint.

COUNT FIVE

FAILURE TO PROVIDE PROMPT APPEALS UNDER
GA. COMP. R. & REGS. 300-2-5-.02(2)(A) AND GA. CONST. ART. VI § 2

(On behalf of the Prompt Appeal Plaintiffs and Prompt Appeal Class)

111.

Paragraph 111 is a statement that Plaintiffs' incorporate their previous paragraphs into Count Five.

112.

Defendants admit that the language cited appears in Ga. Comp. R. & Regs. 300-2-5-.02(2)(a). Defendants are not required to, nor do they, adopt any interpretation of the term "prompt" as advanced by Plaintiffs. Further, Defendants deny that Plaintiffs are entitled to any relief requested.

113.

Defendants deny the allegations contained in paragraph 113 of Plaintiffs' Complaint.

114.

Defendants deny the allegations contained in paragraph 114 of Plaintiffs' Complaint.

115.

Defendants deny the allegations contained in paragraph 115 of Plaintiffs' Complaint.

116.

Defendants deny the allegations contained in paragraph 116 of Plaintiffs' Complaint.

COUNT SIX

VIOLATION OF FEDERAL DUE PROCESS CONSTITUTIONAL RIGHTS, PURSUANT TO 42 U.S.C. § 1983 AND THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION

(On behalf of the Prompt Appeal Plaintiffs and Prompt Appeal Class)

117.

Paragraph 117 is a statement that Plaintiffs' incorporate their previous paragraphs into Count Six.

118.

Defendants deny the allegations contained in paragraph 118 of Plaintiffs' Complaint.

119.

Defendants deny the allegations contained in paragraph 119 of Plaintiffs' Complaint.

120.

Defendants deny the allegations contained in paragraph 120 of Plaintiffs' Complaint.

121.

Defendants deny the allegations contained in paragraph 121 of Plaintiffs' Complaint.

PRAYER FOR RELIEF

The remainder of the Complaint contains prayers for relief. In response to

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I have served counsel for Plaintiff with the foregoing **ANSWER AND DEFENSES**, by filing it with the Clerk of Court using the Odyssey e-File GA system, which will automatically send email notification of such filing to the following attorneys of record:

Jason J. Carter and Juliana Mesa
Bondurant, Mixson & Elmore, LLP
3900 One Atlantic Center
1201 West Peachtree Street, N.W.
Atlanta, GA 30309-3417

Emily C.R. Early
The Southern Poverty Law Center
P.O. Box 1287
Decatur, Georgia 30031-1287

s/KIMBERLY BLUE LEWIS
KIMBERLY BLUE LEWIS 451925
Senior Assistant Attorney General

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

VON KING, DANIELLE JOHNSON,
GERELINE THOMPSON,
CHELSEA SHAW, AND JANE/JOHN
DOE 1-9,

*

*

*

*

*

Plaintiffs, on behalf of
themselves and all others similarly
situated,

*

*

*

*

v.

*

Civil Action No.:

*

STATE OF GEORGIA,
GEORGIA DEPARTMENT OF LABOR,
and COMMISSIONER MARK BUTLER,
in his official capacity,

*

2021CV350906

*

*

*

*

Defendants

*

SUPERIOR COURT NOTICE OF REMOVAL

**TO: The Clerk of the Superior Court of Fulton County, State of
Georgia; and Attorneys for Plaintiffs: Jason J. Carter, Esq.;
Juliana Mesa, Esq.; and Emily C.R. Early, Esq.**

Please take notice that on July 30, 2021, the State of Georgia; the Georgia
Department of Labor; and Commissioner Mark Butler, in his official capacity,
Defendants in the above-referenced action, by and through their counsel of record,

Department of Law, State of Georgia
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Tel: (404) 458-3542
Tel: (404) 458-3491
Tel: (404) 458-3538
Fax: (404) 657-9932
Email: bwebb@law.ga.gov
Email: kstoff@law.ga.gov
Email: klewis@law.ga.gov

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I have caused to be served the within and foregoing **SUPERIOR COURT NOTICE OF REMOVAL** on the same day as e-filing the same with Fulton County Superior Court's e-filing system by one or more of the following methods: by electronic service via the Court's e-filing system, by depositing a copy with the United Parcel Service properly packaged, and/or by U.S. Mail postage prepaid, to the following persons as addressed as follows:

Jason J. Carter and Juliana Mesa
Bondurant, Mixson & Elmore, LLP
3900 One Atlantic Center
1201 West Peachtree Street, N.W.
Atlanta, GA 30309-3417
Email: carter@bmelaw.com

Emily C.R. Early
The Southern Poverty Law Center
P.O. Box 1287
Decatur, Georgia 30031-1287
Email: emily.earl@splcenter.org

This 30th day of July, 2021.

*/s/*Kimberly B. Lewis
KIMBERLY B. LEWIS 451925
Senior Assistant Attorney General

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

Von King
Danielle Johnson
Gereline Thompson
Chelsea Shaw
Jane/John Doe 1-9

DEFENDANT(S) 1:21-cv-3082 CAP 440 42:1983cv

State of Georgia
Georgia Department of Labor
Commission Mark Butler in his official capacity

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Clarke
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Fulton
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Jason J. Carter and Juliana Mesa (see page 2 of 3)
Bondurant, Mixson & Elmore, LLP
3900 One Atlantic Center ;1201 West Peachtree Street,
N.W.; Atlanta, GA 30309-3417 ; Ph: 404-881-4400
Email: carter@bmelaw.com Mesa@bmelaw.com

ATTORNEYS (IF KNOWN)

Kimberly B. Lewis (Lead Attorney)
Dept. of Law, State of Georgia
40 Capitol Square, S.W.
Atlanta, GA 30334
Ph: 404-458-3538 Email: klewis@law.ga.gov

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 2 U.S. GOVERNMENT DEFENDANT
- 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)

- | PLF | DEF | | PLF | DEF | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|---|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
- 2 REMOVED FROM STATE COURT
- 3 REMANDED FROM APPELLATE COURT
- 4 REINSTATED OR REOPENED
- 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Violation Of Federal Due Process Constitutional Rights, Pursuant To 42 U.S.C. § 1983 And The Fourteenth Amendment Of The U.S. Constitution

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 0. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____
JUDGE _____ MAG. JUDGE _____ (Referral) NATURE OF SUIT _____ CAUSE OF ACTION _____

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

SEE PAGE 1 OF 3

DEFENDANT(S)

See Page 1 of 3

(b) COUNTY OF RESIDENCE OF FIRST LISTED

PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED

DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Emily C.R. Early (see also page 1 of 3)
The Southern Poverty Law Center
P.O. Box 1287
Decatur, Georgia 30031-1287
Ph: 404-521-6700 Email: emily.early@splcenter.org

ATTORNEYS (IF KNOWN)

Bryan K. Webb and Katherine P. Stoff (see also page 1 of 3)
Dept. of Law, State of Georgia
40 Capitol Square, S.W. Atlanta, GA 30334;
Ph: 404-458-3542 : Ph: 404-458-3491
Email: bwebb@law.ga.gov; kstoff@law.ga.gov

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
 2 U.S. GOVERNMENT DEFENDANT
 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

- | PLF | DEF | | PLF | DEF | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|---|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
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 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

See page 1 of 3

(IF COMPLEX, CHECK REASON BELOW)

- | | |
|---|---|
| <input type="checkbox"/> 1. Unusually large number of parties. | <input type="checkbox"/> 6. Problems locating or preserving evidence |
| <input type="checkbox"/> 2. Unusually large number of claims or defenses. | <input type="checkbox"/> 7. Pending parallel investigations or actions by government. |
| <input type="checkbox"/> 3. Factual issues are exceptionally complex | <input type="checkbox"/> 8. Multiple use of experts. |
| <input type="checkbox"/> 4. Greater than normal volume of evidence. | <input type="checkbox"/> 9. Need for discovery outside United States boundaries. |
| <input type="checkbox"/> 5. Extended discovery period is needed. | <input type="checkbox"/> 0. Existence of highly technical issues and proof. |

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____
JUDGE _____ MAG. JUDGE _____ (Referral) NATURE OF SUIT _____ CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK
- 880 DEFEND TRADE SECRETS ACT OF 2016 (DTSA)

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 485 TELEPHONE CONSUMER PROTECTION ACT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT 899
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____ amount not specified
 JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ Kimberly B. Lewis

7-30-2012

SIGNATURE OF ATTORNEY OF RECORD

DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Georgia DOL Hit with Lawsuit Over 'Extreme Delays' in Providing Unemployment Benefits](#)
