

No. 23-191

IN THE
Supreme Court of the United States

NANCY WILLIAMS, ET AL.,
Petitioners,

v.

FITZGERALD WASHINGTON,
ALABAMA SECRETARY OF LABOR,
Respondent.

On Writ of Certiorari to the
Supreme Court of Alabama

JOINT APPENDIX

EDMUND GERARD LACOUR JR. <i>Counsel of Record</i>	ADAM G. UNIKOWSKY <i>Counsel of Record</i>
OFFICE OF THE ATTORNEY GENERAL 501 Washington Ave. Montgomery, AL 36130 (334) 242-7300 edmund.lacour@alabamaag.gov	JENNER & BLOCK LLP 1099 New York Ave., NW Suite 900 Washington, DC 20001 (202) 639-6000 aunikowsky@jenner.com

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NOTICE

The following documents have been omitted in the printing of this Appendix. They may be found in the Petitioner’s Appendix at the following pages:

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JA1
Supreme Court of Alabama

SC 2022-0897

Aaron Johnson et al.,
Appellants,

vs.

Secretary Fitzgerald Washington,
Appellee.

Relevant Docket Entries

Appeal Docketed (Oct. 7, 2022)

Appellant's Brief (Dec. 6, 2022)

Appellee's Brief (Jan. 6, 2023)

Appellant's Reply Brief (Jan. 27, 2023)

Submitted On Briefs (Feb. 1, 2023)

Decision - Affirmed (June 30, 2023)

JA2

Circuit Court of Montgomery County, Alabama

Civil Action No. 03-CV-2022-900134

Aaron Johnson et al.,
Plaintiffs,

vs.

Secretary Fitzgerald Washington,
Defendant.

Relevant Docket Entries

Affidavit of Thomas Daniel (Mar. 28, 2022), Doc. 36

Amended Complaint (Apr. 11, 2022), Doc. 43

Order on Dismissal of the Complaint (May 23, 2022), Doc.
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Order Denying Motion to Reconsider (Aug. 23, 2022),
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JA3

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA
FIFTEENTH JUDICIAL CIRCUIT

03-CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, in his official capacity as
Secretary of the Alabama Department of Labor, et al.,

Defendants.

[Filed Mar. 28, 2022]

AFFIDAVIT OF THOMAS DANIEL

I, Thomas Daniel, after being duly sworn, testify
herein as follows:

1. My name is Thomas Daniel. I am over the age of nineteen (19) and am otherwise competent to testify. I am currently employed as the Director of the Unemployment Compensation (“UC”) Division for the Alabama Department of Labor (“Department”), a position I have held since 2014. The facts set out below are based upon my personal knowledge of the records of the Department maintained in the ordinary course of business of the Department.
2. The purpose of this affidavit is to directly respond to the charges and affidavits filed by the Plaintiffs in their Submission in Support of Preliminary Injunctive Relief.

JA4

3. Plaintiffs allege in their Submission in Support of Preliminary Injunctive Relief that Plaintiffs Senata Waters, Raymond Williams, and Christin Burnett were harmed by not being paid benefits at the “earliest stage of unemployment that such payments were administratively feasible.” This is an incorrect allegation.
4. Plaintiff Senata Waters filed her initial claim on May 25, 2020, indicating that she had been discharged for misconduct from Security Engineers Inc on July 16, 2019, which was 8 months prior to the pandemic. The employer responded to ADOL’s request for separating information and indicated that Waters gave notice that she was quitting but did not give a reason for quitting. A Notice of Determination explaining the quit was mailed to Waters on December 2, 2020. Waters thereafter filed an appeal on December 3, 2020. That appeal is still pending. Waters would have been paid “at the earliest stage of unemployment” had she not been disqualified. The facts in the case, however, support a voluntary quit for no good work-connected cause; therefore, the claim has been assessed properly and the claimant is not entitled to any benefits.
5. Plaintiff Raymond Williams filed his claim initially on January 23, 2020, which was two months prior to the pandemic. The claims examiner denied the claim and mailed the claimant a Notice of Determination on February 5, 2020. The examiner determined that Williams

JA5

had been discharged from Landry's Seafood for eating food on the line. As a cook, he was not allowed to eat the food without a ticket from management that allowed him a 50% discount on purchased food. On the day in question, management reviewed the surveillance tape and determined that Williams had eaten nine food items while working; he did not receive a ticket from management and did not purchase the food at his discounted rate. He admitted to eating the food and was subsequently terminated. The claimant appealed the examiner's determination and was granted an administrative hearing on February 21, 2020. The Hearing Officer affirmed the examiner's determination denying benefits due to misconduct for a dishonest or criminal act committed in connection with work. Williams never appealed that decision to the Board of Appeals. Any appeal filed now would be untimely.

6. Williams was also sent a Notice of Determination by mail on May 1, 2020, apprising of his being ineligible for PUA benefits. Williams has not alleged that he worked anywhere else. His date of separation alone would disqualify him from being eligible for PUA. The fact that his separation was regarded as major misconduct would disqualify him from receiving regular UI. He filed several change-of-quarter claims with all of them listing Landry's as his separating employer with a variation of January separation dates. All dates were prior to the President's declared pandemic period. It is undeterminable as to how the claimant received two weeks of PUA payments

JA6

and FPUC; he was not entitled to those weeks and should not have received benefits for them.

7. The Hearings and Appeals Division issued a determination on the PUA issue on September 23, 2020. Williams was provided with appeal rights until October 8, 2020. Williams did not appeal to the Board of Appeals until February 5, 2021, which was 120 days late. My understanding is that no good cause exception exists for filing a late appeal and thus the Board of Appeals had no jurisdiction to hear the case.
8. Plaintiff Williams would have been paid at the “earliest stage of unemployment” had he not been disqualified for a dishonest act. Because he was disqualified for a dishonest act in connection with his work and because the event occurred prior to the pandemic, he is also not eligible for pandemic related benefits.
9. Plaintiff Christin Burnett was paid at the “earliest stage of unemployment” throughout her claim. Burnett filed her initial claim on November 1, 2019, indicating she had been laid off from her last employer for an unknown reason. Since the employer never responded to our request for separation information, the claim was approved for payment, and Burnett received 26 weeks of regular unemployment through week ending May 2, 2020. She then received 13 weeks of PEUC through week ending August 1, 2020. She then received 9 weeks of Extended Benefits through

JA7

week ending 10/03/20 when Alabama triggered off Extended Benefits.

10. Burnett thereafter filed an additional unemployment claim on October 27, 2020, however, she failed to answer the identity challenge questions correctly and an identity verification issue was established on her claim. A search of our imaging system does not ever reveal that Burnett submitted any documentation to try and resolve the identity issue on her claim. When this lawsuit was filed, however, we did clear the identity issue since she is represented by counsel, and we assume that counsel has indeed verified her identity. On March 1, 2022, Burnett was paid for all outstanding benefits in the amount of \$6,230.00.
11. Plaintiffs Aaron Johnson, Nancy Williams, and Cynthia Hawkins each allege that they have not received a decision on their claims. These allegations are also false. Copies of the determinations are attached hereto as Exhibits (“A”, “B” & “C”, respectively). A short synopsis of each claim follows.
12. As to Plaintiff Aaron Johnson, Johnson filed his initial claim for benefits on August 11, 2020, indicating that he had last worked on August 10, 2020, for the Census Bureau. He stated that he was separated from employment due to a lack of work. The Federal Request for Wage and Separation Information was sent to the separating employer on August 12, 2020, and a

JA8

response was received on August 25, 2020, indicating that Johnson only had wages in one quarter of the base period. You must have insured wages in at least two quarters of your base period in order to qualify for unemployment benefits. As such, the claim was deemed monetarily ineligible. Johnson was mailed a monetary determination notifying him that he was ineligible to receive unemployment benefits for lack of wages (*See also* Exhibit “A”). Since he did not list his reason for separation as pandemic related, he was not eligible for Pandemic Unemployment Assistance (PUA) benefits.

13. Johnson thereafter submitted another claim on October 30, 2020, and a response from the employer was received on November 2, 2020. He did have qualifying wages at this time, and he was thus deemed monetarily eligible. When he filed his October 2020 claim, he indicated, however, that he had been involved in an accident and was unable to work. To be eligible for benefits, a claimant must be able and available for work. As to Johnson’s able and available issue, Johnson was mailed a Doctor’s Certificate on October 28, 2020. The completed document was not sent back to ADOL until August 5, 2021, over 9 months later.
14. Johnson also had listed banking information that was called into question. The banking information was not validated until he visited the Mobile Career Center on January 6, 2022. Once he cleared the banking issue up, the claim was able to be corrected and in doing so, all pending

payments associated with his claim were released on February 23, 2022. No other benefits are due him at this time.

15. As to Plaintiff Nancy Williams, Williams filed her initial claim on June 5, 2020, indicating that she had last worked for Premier Medical Management on June 5, 2020, and that she had been separated from work for an unknown reason. *See* Exhibit “D”. She thereafter stated, “they decided to end my employment today.” When questioned what she did to try and resolve the problem, Williams stated, “nothing I could do, it had already decided, I made a complaint retelatio(sp) and discriminated against.” *See* Exhibit “D”. Because no response had been received from the employer, the claim was cleared for payment, and she received five weeks of unemployment through week ending July 18, 2020. The employer did thereafter respond and notified the agency that Williams had submitted a letter of resignation, and the separation issue was then changed from unknown reasons to a voluntary quit. The letter of resignation only stated Williams was giving a 2 week notice. *See* Exhibit “E”. No reason for her resignation was given, thus it is not for a good work-connected cause.
16. On September 30, 2020, Williams submitted on-line fact-finding admitting that she had resigned her job due to harassment, but when asked whether she had been previously warned about

JA10

her behavior that led to her separation, she stated yes. *See* Exhibit “F”.

17. Williams also created an availability issue while completing her weekly certification for week ending January 23, 2021. During that certification, she indicated that she was taking online classes. It was later determined that the online classes did not affect her availability to work. While in the process of clearing the availability issue, a UC officer adjudicated the voluntary quit separation issue disqualifying the claimant from benefits. The Notice of Determination and the Notice of Determination of Overpayment were mailed on February 10, 2021. *See* Exhibit “G”. The appeal filed by Williams is still pending.
18. As to Plaintiff Cynthia Hawkins, Hawkins filed her initial claim on April 20, 2020, indicating she had last worked for Autry Greer & Sons Inc on March 25, 2020. When filing her claim, Hawkins stated that she was separated from employment because of her request for a leave of absence. The employer responded and indicated that she had voluntarily quit her job. The employer further stated that the claimant had not asked for a leave of absence, but rather she wanted to quit because she was afraid that she would contract COVID, and she had underlying health conditions.
19. Hawkins was mailed a Dr.’s Certificate (BEN 254 DC) on April 22, 2020, but she did not return the form to ADOL until February 9, 2021, which was

JA11

10 months later. The doctor certified that claimant could only work if she was isolated from the public. The claim for Hawkins was paid initially because of a decision to mass clear the leave of absence claims. Upon receiving the statement from Hawkins' physician, a claims examiner determined that Hawkins was disqualified for voluntarily quitting her job for no good work-related cause and not being able to work. The disqualification resulted in Hawkins being overpaid benefits in the amount of \$12,525.00. *See* Exhibit "H".

20. Hawkins was mailed a PUA application, but there is no record of her having returned the document to ADOL. Being afraid of catching COVID was not a qualifier for regular unemployment, nor was it a qualifier for PUA. Hawkins filed a new claim on August 15, 2021, stating that she was on a leave of absence from Wendy's. The employer responded to the Notice of Claim and Request for Separation Information indicating that the claimant had voluntarily quit. A claims examiner thus determined that Hawkins was ineligible to receive benefits. No benefits were paid on the August 15, 2021, claim date. The appeal filed by Hawkins is still pending.
21. Lastly, Plaintiffs Senata Waters and Raymond Williams allege they are still awaiting hearings on their claims. Raymond Williams's appeal is untimely (*see*, 7 above) and, based on my understanding, there is no jurisdiction to hear his

JA12

appeal. The appeal filed by Senata Waters is indeed still pending.

22. Treasury Offset Program (TOP) letters are mailed to claimants ordinarily when there has been a determination of fraud or a claimant's failure to report wages. ADOL is aware that there have been instances where claimants have been mailed a TOP letter when no such determination of fraud or unreported earnings have been made. It is my understanding that is an error made on behalf of Netacent, our third party software vendor for our UI system. Representatives from ADOL's Benefit Payment Control Division and our vendor meet on a weekly basis to work out any software issues that may surface. Although a TOP letter may have erroneously been mailed to a few claimants, ADOL has not submitted any actual claims to TOP since 2019. In other words, no tax refunds have been intercepted since 2019, which was prior to the pandemic. We continue to monitor our software regularly and make necessary patches and edits whenever issues surface.

23. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

/s/
Thomas Daniel

JA13

/s/
SWORN TO AND SUBSCRIBED BEFORE ME this
28th day of March, 2022.

Notary Public
My Commission expires 06/09/25

JA14

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor

Defendants.

[filed April 11, 2022]

Amended Complaint

Nature of Claim

1. Plaintiffs bring this action against defendant Fitzgerald Washington, in his official capacity as the Secretary of the Alabama Department of Labor, seeking that he be ordered to properly perform mandatory duties under the Social Security Act of 1935, 42 U.S.C. §§501-504 and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. Plaintiffs request Washington timely process their unemployment applications, make eligibility determinations, provide adequate notice before denying or terminating benefits, schedule appeal hearings, and redress deprivations of claimants' rights regarding claims denied or terminated without proper notice and opportunity for a fair hearing.

2. Plaintiffs have standing to bring this suit pursuant to 42 U.S.C. §1983 as a suit for injunctive relief against Washington in his official capacity. Neither Alabama constitutional immunity nor qualified immunity under the Eleventh Amendment is available in cases requesting “prospective injunctive relief against state officials acting in violation of federal law.” *Ex parte Ret. Sys. of Alabama*, 182 So. 3d 527, 538 (Ala. 2015). This standing, commonly referred to as the Ex Parte Young doctrine, holds that sovereign immunity does not prevent people harmed by state agencies acting in violation of federal law from suing the officials in charge of the agencies in their individual capacity for injunctive relief and has been a cornerstone of American jurisprudence for over a century.
3. Defendant’s failure to process applications for unemployment compensation benefits in a timely manner causes thousands of Alabama households to suffer. Plaintiffs have experienced extreme delays at every step of the unemployment process, including waiting many months, often more than a year, for an ADOL claims examiner to consider their applications for benefits and determine their eligibility, for information about termination of benefits, and for their appeals to be scheduled for hearing by an administrative hearing officer. Plaintiffs have a clear legal right to prompt action by defendant in connection with their pending eligibility determinations and requested appeal hearings, and they have a right to timely and adequate notice of action on their

claims. Plaintiffs have no other adequate legal remedy.

4. Defendant's policies and practices also deny plaintiffs and other claimants their rights under the Due Process Clause by not providing any notice of terminations and denials or providing only a constitutionally inadequate notice. When defendant sends claimants notices, they are often confusing, inconsistent with other notices, and lacking sufficient information for the claimants to determine the reason for the denial. Because the "fundamental requisite of due process of law is the opportunity to be heard... 'at a meaningful time and in a meaningful manner,'" the Due Process Clause requires that a determination of ineligibility or disqualification provide a recipient "timely and adequate notice detailing the reasons for a proposed termination." *Goldberg v. Kelly*, 397 US 454, 267-268 (1970).
5. Due process also requires that notices not be confusing. See *Day v. Shalala*, 23 F.3d 1052, 1065-66 (6th Cir.1994) (holding that a notice that misled claimants by equating a new application with an appeal of the initial determination violated due process); *Gonzalez v. Sullivan*, 914 F.2d 1197, 1203 (9th Cir.1990) (concluding that a notice of denial of disability benefits failed to provide adequate notice because it did not clearly indicate that a determination becomes final if no request for reconsideration is made).

6. Defendant also relies on electronic and hard versions of an information booklet to provide claimants with key information about unemployment compensation. The booklet is written at an educational level that most claimants cannot understand. As a result, claimants are often unsure of what they need to do, and they make mistakes. This adds to the defendant's administrative burden and leads to claimants being denied and requesting hearings, adding to the hearing backlog. The booklet is in violation 20 CFR Part 602 Appendix A which includes 6011 *Secretary's Interpretation of Federal Law Requirements*, requiring: "Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law."
7. The defendant's confusing notices, failure to make timely decisions, and failure to provide useful and adequate information on a claimant's status create a situation where the plaintiffs and other claimants are forced to repeatedly call the Department of Labor ("ADOL") in an attempt to get answers. The defendant's inability to address these issues leads individuals to send gratuitous communications and file unnecessary paperwork which leads to further delays.
8. Claimants who are wrongly denied and cannot reach someone at ADOL to resolve the problem

JA18

often request hearings, which also contributes to a huge number of hearing requests, resulting in defendant being so far behind in scheduling hearings that as of January 20, 2022, ADOL was scheduling hearings that claimants requested in August of 2020.

9. Defendant's agents sent several of the plaintiffs and many other claimants notice of his intent to use the Treasury Offset Program ("TOP") (a program to collect overpayments due to either fraud or failure to report wages where the debt in final) even though the alleged overpayments did not qualify for collection through TOP and even though defendant had no intention of trying to collect through TOP. Defendant never issued contrary or corrected notices. Hearings requested because of the inaccurate TOP notices also contribute to the hearing backlog.
10. As illustrated in the allegations below and the attached affidavits, plaintiffs have suffered due to the defendants' violations of due process and other federal law and that harm is directly traceable to defendant's actions.
11. A claimant's expectation of benefits is a property interest protected under the Due Process Clause and plaintiffs have a due process right to decisions related to unemployment compensation benefits for which they qualify.
12. Plaintiffs have no adequate legal remedy.

JA19

PARTIES

13. Plaintiff Aaron Johnson is a 68-year-old resident of Alabama. After retiring from the military, he worked for the U.S. Census for a little less than a year. When laying the employees off last fall, Mr. Johnson's supervisor told the employees to apply for unemployment compensation. Mr. Johnson filed in August 2020 and again in October 2020. He kept looking for work and certifying for benefits every week until January 2022. ADOL sent him five monetary determinations. The one dated August 12, 2020, incorrectly said that he had no countable wages, but rightly said he had insufficient countable wages. The others showed the proper wage record, but the one dated October 29, 2020, incorrectly said that Mr. Johnson had insufficient wages. None of the five notices said that it represented a final decision. Indeed, each said that ADOL was still working on determining his eligibility ("Payments are pending final approval of the claim."). None said it was correcting an earlier error. Only the first monetary eligibility determination notice was paired with an eligibility notice, but that was followed by another monetary determination dated August 28, 2020, saying that ADOL was still working on a decision. The August 28 notice failed to tell Mr. Johnson that he could not be found eligible on the basis of his first application, but that he would be monetarily eligible in four days. The notice ADOL sent December 12, 2020, failed to tell Mr. Johnson that ADOL was not really working on his application and would in fact

JA20

take no action until he submitted a doctor's statement. After August 2020, ADOL never sent a decision on Mr. Johnson's eligibility for unemployment compensation. Mr. Johnson has tried calling the appointments line many times without ever getting through to get an appointment. He last called in January 2022. Had ADOL sent adequate notices, Mr. Johnson would have submitted an application on or about September 1, 2020, and he would have understood the importance of getting his doctor to prepare a statement right away.

14. Christin Burnett is a resident of Alabama over the age of 19. After losing her job in 2019, Ms. Burnett applied for unemployment compensation. ADOL found Ms. Burnett eligible and paid her until October 2020, when her regular benefits ran out. She applied for pandemic unemployment assistance in October 2020. The Department did not send Ms. Burnett a decision, but eventually her computerized records showed that the Department had decided that she was not eligible. Ms. Burnett made numerous phone calls to the Department to try to find out why. On February 11, 2021, she got through to the claims inquiry line and got an appointment for a call from a worker. At 7:00 a.m. on February 12, 2021, a worker called and told Ms. Burnett that she was disqualified because of an error involving her social security number and because she lost her job before COVID. Ms. Burnett is unable to find new employment because of COVID. She is

JA21

waiting for ADOL to acknowledge her hearing request and schedule a hearing.

15. Plaintiff Nancy Williams is a resident of Alabama over the age of 19. Ms. Williams applied for unemployment compensation after quitting a job in June 2020 because of retaliation following her complaint about racial discrimination. ADOL did not issue a decision, but it paid Ms. Williams \$600 in Federal Pandemic Unemployment Compensation (“FPUC”) on June 13, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on June 20, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on June 27, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on July 4, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on July 11, 2020; and \$275 in regular unemployment compensation and \$600 in FPUC on July 18, 2020. At that time, ADOL stopped payments without any notice. Ms. Williams called the ADOL claims inquiry line several times and eventually was able to talk to a worker on about February 10, 2021. The Department then issued a decision finding her ineligible for any unemployment compensation. It followed that decision with a decision saying that all the benefits that she had received were erroneously paid, and that she had to repay that overpayment of \$4975. Ms. Williams requested a hearing, and she is waiting for ADOL to acknowledge her hearing request and schedule a hearing. The hearing presents a factual question of whether the discrimination created a work

JA22

atmosphere sufficiently toxic to amount to a constructive discharge or coerce a reasonable person to quit.

16. Plaintiff Derek A. Bateman is a resident of Alabama over the age of 19. Mr. Bateman is an independent shrimper. He lost the ability to sell his shrimp after the pandemic struck. In May 2020, Mr. Bateman filed an application for pandemic unemployment benefits. He was late getting a 1099, but someone from ADOL told him to submit it anyway. He has not received any notice except for monetary ineligibility notices. Each time he has received one, he has appealed. He has also sent hundreds of emails that ADOL does not respond to or acknowledge and has called what he believes must have been at least a thousand times before he was ever able to talk with a worker or schedule an appointment. The calls either yielded busy signals or “high volume” messages until Mr. Bateman got to a message saying all appointments for the next day are booked. On March 28, 2021, Mr. Bateman was able to get through and got an appointment for a call back on March 29, 2021. Before the call, he checked the claim tracker and was glad to see that his status had changed to ‘active in pay status’ and showing there were no more pending issues. However, when the representative from ADOL made the callback, she told Mr. Bateman that he would not be getting anything until his appeal gets resolved, and he said that ADOL was then only working on scheduling appeals filed on July 17, 2020. The representative said that he will just

have to call and check a month from then and every month after. Mr. Bateman had lost everything and did not even have a place to stay and was struggling to keep from going hungry. On or about March 18, 2022, Mr. Bateman received bank deposits from ADOL for “FPUC” and “benefit” payments. He did not get any explanation why ADOL had not paid him for all the weeks for which he certified. He checked on his portal, which showed that there was an unresolved issue, and that he would not be paid until that issue was resolved.

17. Plaintiff Jack Ficaro is a resident of Alabama over the age of 19. After being fired from his job, Mr. Ficaro applied for unemployment compensation benefits online on or about June 29, 2020. He received a monetary determination dated July 31, 2020. On September 8, 2020, Mr. Ficaro inquired about his claim, but he did not hear anything. On November 5, 2020, Mr. Ficaro checked on his portal and learned that his case was awaiting a response from his former employer. On November 27, 2020, the portal showed that the employer had responded, and that ADOL would make a decision. Mr. Ficaro then received a denial notice dated December 3, 2020. Mr. Ficaro promptly appealed and kept proof of the appeal. Mr. Ficaro paid \$10 to ADOL as required for the request he made for some information about his unemployment case, including a copy of his former employer’s response. ADOL responded but it did not provide the information he requested. ADOL has not communicated with

him at all concerning the hearing request. He is waiting for ADOL to acknowledge his hearing request and schedule a hearing.

18. Plaintiff Dashonda Bennett is a resident of Alabama over the age of 19. When Ms. Bennett lost her job in March because of the pandemic, she applied for unemployment compensation. ADOL paid Ms. Bennett until late June, but it then stopped the benefits saying that her former employer said that she had quit without good cause. Ms. Bennett told someone at ADOL she had not quit, but that person told Ms. Bennett she would have to appeal. Ms. Bennett filed an appeal in early July 2020, but the hearing on the appeal has not been scheduled.
19. Plaintiff Latisha Kali is a resident of Alabama over the age of 19. She worked as an operation supervisor at Lowe's from 9 p.m. to 5 a.m. for two years. She caught COVID and missed eight weeks of work until she was able to test negative. When she returned to work, her supervisor started harassing her and acting in a racist manner toward her. Ms. Kali worked past the end of her shift to protect her job, but her supervisor continued harassing her. Ms. Kali made a complaint against her supervisor, who then took her off the schedule. The supervisor showed HR a schedule with Ms. Kali's name on it, leading Ms. Kali to be fired for "no show, no call." She complained up the ladder, even talking once to the CEO. But to no avail. Ms. Kali applied for unemployment compensation in early November

JA25

2020 but still has not received a decision. She and her counsel tried to schedule an appointment to learn about her claim, but they got busy signals or “high volume” messages until getting messages that all the next day’s appointments have been booked. In the spring of 2021, the Legal Office of ADOL established a procedure for lawyers at Legal Services Alabama to email an ADOL lawyer and get a response providing information that the claimant was unable to obtain from ADOL on her own. Using this procedure, on May 21, 2021, counsel for Ms. Kali sent an email to counsel for ADOL asking why she had not yet received a decision. On June 22, 2021, counsel for ADOL said that he assumed that Ms. Kali’s case was on appeal but not yet processed. He said that Ms. Kali would get a notice of a telephonic administrative hearing when it is processed. She has not heard anything further. On January 23, 2022, and again on January 24, 2022, Ms. Kali called the appointments number to try to get an appointment to get answers about her claim. Both times she got busy signals or indications of high volume until she finally got word that all appointments for the next day had been filled. ADOL made three payments to Ms. Kali in March 2022, and it also sent a notice of monetary eligibility. ADOL did not send an explanation of what benefits were claimed and what were paid. The notice of monetary determination indicated Ms. Kali’s benefit year began as of November 1, 2020, but it did not explain why she was not paid for the time she tried to apply in October 2020.

Ms. Kali believes that she is still entitled to more unemployment compensation benefits.

20. Plaintiff Quinton Lee is a resident of Alabama over the age of 19. Mr. Lee last worked on June 8, 2020. He filed for unemployment compensation on June 15, 2020, and continued to certify weekly. After almost a month, the webpage for his account showed his status as “failure to provide information” and said a determination letter was mailed to him on July 6, 2020. He called the ADOL inquiry line and was able to speak with someone who told him that she would get the matter cleared up. It never was cleared up. He was unable to sign up for regular unemployment compensation benefits or PUA. Mr. Lee obtained an appeals referee hearing. Unfortunately, the hearing officer just cleared an eligibility issue and left it for ADOL to decide on whether Mr. Lee should be disqualified. On February 28, 2022, ADOL decided Mr. Lee voluntarily quit without good cause. He appealed that decision on March 15, 2022, but no hearing has been scheduled yet.
21. Plaintiff Esta Glass is a resident of Alabama over the age of 19. Since 2011, she has been employed by ASM Global as a provider of services for concerts and similar events. As a result of COVID, Ms. Glass has not been able to get much work, as there have been cancelations of so many concerts and parades and other events. Ms. Glass made numerous attempts to apply for phone after losing her job in March but was only able to file online in late June 2020. ADOL approved her

claim for pandemic unemployment compensation but did not pay for weeks before her online application. Ms. Glass filed a request for a hearing on November 30, 2020, but ADOL has not acted on the hearing request.

22. Plaintiff Joyce Jones is a resident of Alabama over the age of 19. She applied for unemployment compensation after losing her job due to COVID. ADOL approved her application and paid her, but then it stopped paying her without sending a notice explaining why. After Ms. Jones had gone at least six weeks signing up for benefits and calling trying to find out why they were not being paid, ADOL reinstated her benefits. She never found out why the benefits stopped, never got any notice and never could get through at the claims inquiry number.
23. Plaintiff Michael Dailey is a resident of Alabama over the age of 19. Mr. Dailey was fired from his job for supposedly being late, but this appeared to be a ruse so that relative of a supervisor could be hired. Mr. Dailey filed a claim for unemployment compensation on or about August 11, 2020. Mr. Dailey signed up for fifteen weeks, but ADOL never acted on the claim.
24. Plaintiff Deja Bush is a resident of Alabama over the age of 19. Ms. Bush filed an application for regular and pandemic unemployment compensation benefits and certified for benefits. By mistake, on May 16, 2021, she answered one question wrong, and ADOL denied her benefits

for that week. Ms. Bush tried to correct the error and tried to get someone working for ADOL to help her correct it. She sought assistance from Legal Services Alabama. In the spring of 2021, the Legal Office of ADOL established a procedure for lawyers at Legal Services Alabama to email an ADOL lawyer and get a response providing information that the claimant was unable to obtain from ADOL on her own. Using this procedure, on May 24, 2021, counsel for Ms. Bush sent an inquiry to counsel for ADOL asking that Ms. Bush be given an opportunity to correct the erroneous response so that she could get benefits for that week. ADOL did not respond directly or through counsel. Ms. Bush called the appointments number for ADOL. After several attempts, on January 24, 2022, Ms. Bush was able to make an appointment. A representative from ADOL called her on January 25, 2022, and said that Ms. Bush had exhausted her benefits, and that she could not get any more benefits until after March 2022. The representative said that only after that time could ADOL consider whether Ms. Bush was due benefits for the week that she missed. Ms. Bush explained that she did not understand, but the ADOL representative said that she could not provide any more of an explanation.

25. Plaintiff Jarvis Dean applied for unemployment compensation early in 2021. He returned to work but had to leave work again when he became ill with COVID. In early 2021, he was able to get through to ADOL to check the status of his claim.

JA29

He learned then that he was being charged with an overpayment, but he does not know why and has never received any notice regarding an overpayment. Someone at ADOL told Mr. Dean he had to supply his social security number and copies of identification, which he did. Mr. Dean went to his local employment office May 24, 2021. There a worker confirmed that an inquiry had been made to Mr. Dean's former employer on April 28, and that ADOL was still waiting for a response. In the spring of 2021, the Legal Office of ADOL established a procedure for lawyers at Legal Services Alabama to email an ADOL lawyer and get a response providing information that the claimant was unable to obtain from ADOL on her own. Using this procedure, Mr. Dean's counsel sent an email On May 24, 2021, to counsel for ADOL asking why ADOL could not make a decision based solely on Mr. Dean's certification, since the former employer had failed to respond timely. Counsel for Mr. Dean followed up on that email on August 31, 2021. The ADOL has not provided any information and has not paid Mr. Dean since providing a lump sum in November 2020.

26. Plaintiff Taja Penn attempted to apply for unemployment compensation after losing her job in 2020. She was unable to file an application for unemployment compensation, because someone else was using her Social Security number to draw benefits. Ms. Penn completed and submitted a fraud affidavit, but she never heard back from ADOL. She filed her taxes and in May

2021 received a letter from IRS that suggests that she is being asked to pay taxes on the unemployment compensation paid to someone else under her Social Security number. In the spring of 2021, the Legal Office of ADOL established a procedure for lawyers at Legal Services Alabama to email an ADOL lawyer and get a response providing information that the claimant was unable to obtain from ADOL on her own. Using this procedure, Ms. Penn's counsel sent an email May 17, 2021, asking ADOL to say whether ADOL had made a determination of fraud against some third party and whether it would pay Ms. Penn the benefits that she never received. On July 9, 2021, the lawyer for ADOL responded saying "if you can get me her last day worked, the weeks she would have certified for and alleges she should be paid, we may be able to work something out. Also, I need a contact number so that we can call her if we need to." On July 9, 2021, counsel for Ms. Penn responded with the requested information. On September 1, 2021, and then again on November 4, 2021, counsel for Ms. Penn sent a follow-up email. Neither Ms. Penn nor her counsel heard from ADOL about her claim until this month when Ms. Penn called the ADOL "appointments" number. The first time, she lost her phone and missed the call. On February 1, 2022, Ms. Penn called again and was told she would get a call sometime during February 2, 2022.

27. Plaintiff Lisa Cormier is over the age of 19. She started work as an assistant manager at a Circle

JA31

K in Gulf Shores in September 2019. In August 2020 she got sick and was placed on COVID quarantine until she could be tested. Ms. Connier's test was negative, but her doctor was concerned that she might nevertheless have COVID. He instructed her not to return to work until she had gone 72 hours without a fever. Ms. Cormier provided all the information to her supervisor who had not yet made the latest schedule. The supervisor expressed her displeasure about Ms. Cormier missing work, but she never told Ms. Cormier that she would be fired. Ms. Cormier heard nothing further from her supervisor. At the beginning of the next week, Ms. Cormier called and had to leave a message asking what was going on. When she got no response, she logged into the work app and learned she had been terminated. Ms. Cormier applied for unemployment compensation in August 2020, but she has not received a decision on her claim. When she managed to get through to talk with someone at ADOL, that person told her that because Circle K said she had been fired for misconduct, Ms. Cormier would get a call from an investigator. The investigator never called. In the spring of 2021, the Legal Office of ADOL established a procedure for lawyers at Legal Services Alabama to email an ADOL lawyer and get a response providing information that the claimant was unable to obtain from ADOL on her own. Using this procedure, Ms. Cormier's counsel sent an email to the Legal Office of ADOL. On May 19, 2021, a lawyer for ADOL responded to an email from Ms. Cormier's counsel and said that

ADOL had decided that Ms. Cormier should receive a partial disqualification pursuant to Ala. Code 25-4-78(3)c, but that an examiner would have to determine whether to issue a final decision of partial disqualification, change it to a total disqualification or clear Ms. Cormier for full benefits. Counsel for Ms. Cormier emailed the lawyer from ADOL again September 1, 2021, to say that Ms. Cormier had never gotten a call and never heard anything on her claim. Neither Ms. Cormier nor her counsel has heard anything from ADOL about her case since then. Without any unemployment compensation benefits to make up for her lost income from work, Ms. Cormier fell behind on her bills. Although she found a new job with Starbucks in November 2021, she had to give up her home and move to live with family in South Carolina. Fortunately, she was able to transfer and continue working. Ms. Cormier never received a decision on her application, and she has never received any unemployment compensation benefits. She is still behind on bills because of the money she was never paid. Ms. Cormier tried calling the appointments number three times during the week of January 23, 2022, one day at 5:15 p.m., then at 5:07 p.m. and finally at 5:03 p.m. Each time she got a message that said that the appointments for the day were full, and that she would have to call again another day. Ms. Cormier tried to get information from the portal, but she was locked out and could not get in.

28. Plaintiff Mia Brand is a resident of Alabama over the age of 19. Ms. Brand received unemployment

compensation benefits in 2020 and part of 2021. In May 2021, she filed for recertification. She is still waiting for a decision on that application. Her claims portal shows that there are some issues to be resolved, but ADOL appears to have already made an adverse eligibility determination, because ADOL sent an overpayment notice June 1, 2021, saying that Ms. Brand received a \$32,961 overpayment for receiving benefits while disqualified or ineligible. She has never received a decision finding that she was disqualified or ineligible. On August 23, 2021, Ms. Bran requested a hearing. She is waiting for ADOL to schedule a hearing.

29. Plaintiff Tammy Cowart is a resident of Alabama over the age of 19. Ms. Cowart is a single mother of two and is the primary breadwinner of her family. She was laid off from her job and applied for unemployment benefits in October. She learned that someone had applied for unemployment benefits under her name roughly a month before. She does not know who it is, but it was someone who had knowledge of her address roughly ten years ago. Ms. Cowart made an application for fraud investigation and did not hear anything from ADOL. She made an appointment and went to Montgomery, from Bessemer, on November 30, 2020. There a worker told her that someone would email her the next day (12/01/2020), but to this date she has still not received a follow-up. Furthermore, she has not been able to get through the new phone system. Ms. Cowart has returned to work, but she is still

JA34

awaiting a response from ADOL about her fraud application and her eligibility to receive unemployment compensation during the period she was unemployed.

30. Plaintiff John Young is a resident of Alabama over the age of 19. Mr. Young was fired from his job on November 24, 2020, after previously being told to quarantine because several people in his household tested positive for Covid-19. He eventually tested negative and returned to work. He was fired the day he returned and still does not know the reason why. He applied for Unemployment and received a monetary determination in January. He never received an actual determination. He then was able to get through and speak with someone on June 11th, 2021. He was told that his employer stated he voluntarily quit. He filed a hearing request shortly after and has yet to receive a response.
31. Plaintiff Mark Johnson is a resident of Alabama over the age of 19. Mr. Johnson worked in a cemetery at the beginning of the pandemic. He witnessed the increase of death as he had to bury many Covid patients. Eventually, he was diagnosed with Covid. He had to quarantine for 17 days. During this time his brother died, and he took 3 unpaid bereavement days. He was fired shortly after returning to work after asking about hazard pay that he saw on their check stubs but wasn't reflected in their take home. He applied for Unemployment compensation and did not receive a determination. He went to

JA35

Montgomery, and ADOL told him he was fired for insubordination he told them he disagreed and wanted to appeal. ADOL said someone would contact him soon. This was June 2020, and he still hasn't heard anything back. He has since found other employment. As a result of not receiving his unemployment benefits, or at least given the chance to dispute the initial determination Mr. Johnson has almost lost his house and car.

32. Plaintiff Latara Jackson is a resident of Alabama over the age of 19. She was laid off due to Covid in March of 2020. At the behest of management, she applied for unemployment. She received Unemployment Compensation. When Ms. Jackson was preparing to return to work, her doctor told her she should continue to quarantine because of her various health issues. She requested to work another position that was not public facing with her employer. She was never put back on the schedule. She was then assessed a fraud overpayment in the amount of \$22,600. She appealed within the statutory time period and has yet to hear anything back about the overpayment appeal. She went back to work in August 2021. She received another notice in September 2021 stating she had committed fraud. It stated she needed to appeal. This confused her because she had already filed an appeal. She went ahead and filed another appeal, but didn't hear back on it, either. She also received the Benefits, Rights and Responsibilities Handbook after she filed for unemployment compensation. She found it confusing; she contacted ADOL for help;

understanding it but could never reach anyone. The handbook did not help her find out how to address her issues. She was laid off; she did not voluntarily quit.

33. Plaintiff Senata Waters is a resident of Alabama and over the age of 19. Ms. Waters worked security for about 3 years. She was terminated due to alleged misconduct. She never received any verbal or written write-ups. ADOL denied her application for unemployment compensation. Ms. Waters filed an appeal in August 2020 and has yet to receive a response from ADOL. Since that time, the reason showing for her termination has changed several times from misconduct to voluntary quit. She was able to get through ADOL's new phone system, but the person who answered was only able to tell her that ADOL was backlogged, so she should continue to file weekly. Because she is over 65 years old, Ms. Waters is at an elevated risk of contracting COVID. She has been unable to find work. Her only source of income is Social Security. Due to ADOL's failure to schedule a hearing or timely pay her the benefits she is due, she is behind on bills, unable to afford repairs to her house, and cannot afford to purchase a vehicle. She should be eligible for unemployment.
34. Plaintiff Raymond Williams is a resident of Alabama and over the age of 19. Mr. Williams contracted COVID over the summer of 2020 and was in the ICU on a ventilator for over a month. His application for unemployment compensation

was denied. He was allegedly terminated for misconduct, but he disputes that he committed any misconduct - this is precisely why he requires a hearing. He requested a hearing and then got COVID and received notice of his hearing while he was in the hospital. When he was eventually discharged from the hospital, he was unaware of his hearing and missed it. In any case, he was on oxygen and receiving doctors care at home and would have been unable to functionally participate. Mr. Williams still has trouble breathing and doing basic everyday tasks. He sent in a new hearing request detailing his situation. Mr. Williams received a notice from ADOL on Saturday, dated March 5, 2021, saying that the Board of Appeals would not hear his case because he did not appeal to the board of appeals by October 8, 2020. ADOL did not consider Mr. Williams's stay in ICU justified the late filing. ADOL's failure to provide Mr. Williams a hearing has caused him financial hardship. He has applied for disability but has not received it. He's unable to afford his rent, is behind on car payments, and has had to sell personal possessions including those of great personal significance to him.

35. Plaintiff Cynthia Hawkins is a resident of Alabama over the age of 19. Ms. Hawkins has multiple underlying conditions, and she became ill during the COVID-19 pandemic. She was a cashier at a grocery store. Following her illness, the Ms. Hawkins's doctor advised her to cease work during the pandemic to avoid exposure to COVID-19. In March 2020, Ms. Hawkins went on

a medical leave of absence from her employer. Ms. Hawkins's doctor signed the form. Ms. Hawkins gave her employer a copy of the form. Thereafter, the employer put the signed form in Ms. Hawkins' personnel file. On April 19, 2020, ADOL approved Ms. Hawkins for unemployment compensation benefits. She received benefits without interruption until her benefits abruptly stopped on or about August 4, 2020. Ms. Hawkins did not know why her benefits stopped. ADOL did not send her a letter, or any other correspondence, telling her why ADOL stopped her benefits. Thereafter, Ms. Hawkins called ADOL numerous times. However, she could not get an answer. In January 2021, Ms. Hawkins stood in line outside of the local unemployment office with a relative before the office opened so that she could obtain an appointment. The relative lined up at 4:30 a.m. in the cold, and Ms. Hawkins arrived sometime later. The local office was available to speak with only twenty people that day. Ms. Hawkins spoke with a claim's examiner who gave Ms. Hawkins a Doctor's Certificate form. The representative instructed Ms. Hawkins to have her doctor sign the form and return it to ADOL. Ms. Hawkins followed instructions. Upon receiving the certificate, ADOL sent Ms. Hawkins a notice of determination, stating that she left bona-fide work with an employer to voluntarily retire and that she had been overpaid. Ms. Hawkins did not retire from her employer. In February 2021, Ms. Hawkins appealed ADOL's decision. However, she has yet to receive a hearing date from ADOL despite calling ADOL numerous times. To date,

Ms. Hawkins remains unemployed with no income, and she relies on help from family and friends to get by.

36. Plaintiff Crystal Harris is a resident of Alabama and over the age of 19. Ms. Harris was on regular unemployment compensation. When her benefits were about to expire, she learned that a company was considering her for permanent employment, but unfortunately the position was eliminated due to COVID-19. Ms. Harris was able to contact Thomas Daniel, Director of Unemployment Compensation at ADOL, who told her to have her new potential employer write a letter stating that she would have been hired but Covid-19 has caused her not to be hired for the position and apply for PUA. She followed all instructions, including emailing the evidence to Thomas Daniel and Fitzgerald Washington directly. She never received a written determination, by mail or otherwise, but she eventually learned over the phone that ADOL had denied PUA. The lack of response by ADOL and then the denial has caused her family financial ruin. Her eldest son has had to drop out of college to try and contribute to the household. Ms. Harris requested a hearing to contest the PUA denial, and she is awaiting a response.
37. Plaintiff Rashunda Williams is a resident of Alabama over the age of 19. She applied for unemployment in June 2020. She worked at a mental health facility which had had several COVID cases. She was pregnant and had other

JA40

high-risk medical conditions. She was advised by a doctor to go on medical leave. She COVID). In June 2021, she received a notice of overpayment of over \$5,000. She appealed that decision on June 4, 2021. She has not received a hearing. She was entitled to more benefits.

38. Plaintiff Mary C. Blackerby is a resident of Alabama over the age of 19. She applied for unemployment compensation in Jan. 2021. She was self-employed, selling football tickets. Her ability to earn income was impacted by the pandemic and its effect on the football season. She called in from Jan. 2021 - Mar. 2021 and heard nothing. Eventually, she received benefits until June 2021. On July 13, she received a notice of overpayment for \$9,000. She appealed that decision online and in writing by certified mail on July 14, 2021. To date, she has not received a hearing.

39. Defendant Fitzgerald Washington in his official capacity serves as secretary of Alabama Department of Labor (“ADOL”) and, pursuant to Ala. Code §5-4-110, administers Alabama’s unemployment compensation program.

JURISDICTION AND VENUE

40. This Court has jurisdiction over this matter under 42 U.S.C. § 1983, conferring jurisdiction on both federal and state courts to redress the deprivation of federal statutory and constitutional rights.

JA41

41. Venue is appropriate in Montgomery County under Ala. Code §6-3-7.

STATUTORY AND REGULATORY SCHEME

42. Title III of the Social Security Act of 1935, 42 U.S.C. §§501-504, provides payments to states to finance the administration of their unemployment laws. A state is eligible to receive payments if it can meet certain federal requirements, including that the state's law have 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).
43. This section of the Social Security Act is known as the "when due" provision. In *Fusari v. Steinberg*, 419 U.S. 379, 388 n.15 (1958), the U.S. Supreme Court said that by "requiring prompt administrative provision of unemployment benefits", the "when due" clause required prompt decisions on initial claims.
44. The federal regulation interpreting the "when due" provision requires that state 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).

CLAIMS FOR RELIEF UNDER 42 U.S.C. 1983

45. The overall requirement of the “when due” clause of the Social Security Act of 1935 is to ensure that claims are paid as quickly as possible. However, the reality is that claimants, who are in desperate circumstances, are going months without receiving benefits to which they are entitled to from ADOL in violation of the “when due” clause.
46. Defendant’s policies, practices, and procedures of failing to process initial unemployment compensation applications, to provide benefits to eligible people and to schedule hearings violate plaintiffs’ rights to unemployment compensation benefits to which they are due and their rights to prompt decisions and prompt hearings.
47. Defendant’s policies, practices, and procedures of failing to provide written notice and opportunity to request a fair hearing to unemployment compensation applicants whose applications defendant has not processed promptly and recipients whose benefits are terminated violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

PRAYER FOR RELIEF

Accordingly, plaintiffs request that this Court:

- a. Issue a permanent injunction directing defendant to comply with 42 USC §503(a) and 20 CFR §640.3 and promptly make decisions on all applications;

JA43

- b. Issue a preliminary injunction directing defendant to issue an initial nonmonetary decision within the next ten days to every plaintiff who has not yet received a decision;
- c. Issue a permanent injunction directing defendant to pay every claim that has been approved within two days of the date of approval;
- d. Issue a permanent injunction requiring defendant to provide claimants who request a hearing confirmation of the request and to schedule a date not more than 90 days later than the request for the hearing;
- e. Issue a preliminary injunction directing defendant to provide within ten days a hearing date for each of the plaintiffs who have requested a hearing;
- f. Issue a permanent injunction directing defendant to provide all information about the unemployment compensation program and all notices to claimants using language and format making them easily read and understood by people with an eighth grade education;
- g. Issue a preliminary injunction directing defendant within two weeks to file a plan for rewriting notices and information sheets to ensure that they can be easily read and understood by people with an eighth grade education; and

JA44

- h. Award plaintiffs' attorneys fees pursuant to 42 USC §1983.

Respectfully Submitted:

/s/ Michael Forton
Michael Forton

/s/ Farah Majid
Farah Majid

/s/ Lawrence Gardella
Lawrence Gardella

/s/ Ford King
Ford King

Legal Services Alabama
Attorneys for the Plaintiffs
2567 Fairlane Drive,
Suite 200
Montgomery, Alabama 20787
(256) 551-2671

JA45

CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing on Defendant's attorney of record via Alafire today, April 11, 2022.

/s/ Michael Forton
Michael Forton

JA46

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

PLAINTIFF AARON JOHNSON'S AFFIDAVIT

State of Alabama *
County of Mobile *

COMES NOW AARON JOHNSON, a resident of
Mobile County, Alabama, who is of lawful age, and being
duly sworn, deposes and says as follows:

1. I am one of the plaintiffs in this matter challenging delays by the Alabama Department of Labor and the bad notices that they send.
2. I served in the U.S. Army for thirteen years.
3. After retiring from the Army, I worked for the U.S. Census for about one year.
4. The U.S. Census laid the other employees and me off last fall. At the time, my supervisor told us all to apply for unemployment compensation. I applied in late October 2020.

JA47

5. On October 29, 2020, the Alabama Department of Labor sent me a letter. I attach a true copy to this affidavit.
6. I continued looking for work and certifying weekly with the Alabama Department of Labor. On December 16, 2020, the Alabama Department of Labor sent me a second letter. I attach a true copy to this affidavit.
7. I did not understand why the department sent letters. My lawyer later explained to me the difference between the two.
8. The Alabama Department of Labor has never sent me a decision on my application. I continued signing up and certifying until January 2022. I tried calling the appointment line many times without ever getting through to get an appointment.
9. I have been hurting and having trouble paying for the things I need.

/s/
Aaron Johnson

Sworn to and subscribed before me this the 28th day of February, 2022.

/s/
NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: 10-11-2022

JA48

**[DOCUMENT AVAILABLE IN TRIAL
COURT RECORD]**

JA49

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

**PLAINTIFF CHRISTIN BURNETT'S
AFFIDAVIT**

State of Alabama *
County of Mobile *

COMES NOW CHRISTIN BURNETT, a
resident of Mobile County, Alabama, who is of lawful
age, and being duly sworn, deposes and says as follows:

1. I am one of the plaintiffs in this matter
challenging delays by the Alabama Department
of Labor and the bad notices that they send.
2. After losing my job in 2019, I applied for
unemployment compensation. The Alabama
Department of Labor found me eligible. It paid
me until October 2020, when my regular benefits
ran out.
3. The COVID pandemic was still keeping me from
finding work, so I applied for pandemic

JA50

unemployment assistance in October 2020. The Department did not send me a decision, but eventually I saw in my computerized records showed that the Department had decided that I was not eligible. I made numerous phone calls to the Department to try to find out why.

4. On February 11, 2021, I got through to the claims inquiry line and got an appointment for a call from a worker. At 7:00 a.m. on February 12, 2021, a worker called and said that I was disqualified because of an error involving my social security number and because I lost my job before COVID.
5. The next month, I received a letter from the Alabama Department of Labor saying I might be eligible for some benefits. The letter was confusing, but I know it said I did not have to do anything further and that I did not get any more benefits. This letter is attached to this affidavit.
6. I was finally able to start a new job in June 2021. I earn enough to pay my bills as they come due, but it is hard to pay bills that came up while I should have been getting unemployment compensation. By doing without a lot of things I managed to pay the child support payments I missed. I still have medical expenses and other unpaid bills. Even if I keep scrimping, I am afraid I may be sued on those bills.
7. I am waiting for the Alabama Department of Labor to acknowledge my request and schedule a hearing.

JA51

/s/
Christin Burnett

Sworn to and subscribed before me this 4th day of March
2022.

/s/
NOTARY PUBLIC, STATE AT LARGE
My Commission Expires: 02/14/23

JA52

**[DOCUMENT AVAILABLE IN TRIAL
COURT RECORD]**

JA53

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

PLAINTIFF NANCY WILLIAMS'S AFFIDAVIT

State of Alabama *
County of Mobile *

COMES NOW NANCY WILLIAMS, a resident
of Mobile County, Alabama, who is of lawful age, and
being duly sworn, deposes and says as follows:

1. I am one of the plaintiffs in this matter challenging delays by the Alabama Department of Labor and the bad notices that they send.
2. In June 2020, I quit a job because of retaliation following my complaint that the my employer had discriminated against me on the basis of race.
3. I applied for unemployment compensation right after I quit.
4. The Alabama Department of Labor never sent me a decision. It did pay me some unemployment

JA54

benefits. It paid \$600 in Federal Pandemic Unemployment Compensation (“FPUC”) on June 13, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on June 20, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on June 27, 2020; \$275 in regular unemployment compensation and \$ 600 in FPUC on July 4, 2020; \$275 in regular unemployment compensation and \$600 in FPUC on July 11, 2020; and \$275 in regular unemployment compensation and \$600 in FPUC on July 18, 2020.

5. After July 18, 2020, the Alabama Department of Labor stopped my checks without giving any notice why. I called the Department’s claims inquiry line several times and eventually was able to talk to a worker on about February 10, 2021.
6. After the call, the Department issued a decision saying I was ineligible for any unemployment compensation. It followed that decision with a decision saying that all the benefits that I had received were erroneously paid, and that I had to repay that overpayment of \$4975. I requested a hearing, and I have been waiting for ADOL to acknowledge the hearing request and schedule a hearing.
7. On October 29, 2021, the Department sent me a letter saying that it intended to take my income tax refund to get back the \$4975. A copy is attached to this affidavit

JA55

8. It sent me the letter even though it still had not scheduled my hearing, so the decision against me was not final.
9. I believe I was eligible for unemployment compensation, and that I will win my hearing. In any case, at no time did I do anything to mislead anyone at the Alabama Department of Labor.
10. I am now working providing care to someone who is disabled. I earn enough to pay my rent and most other bills, but I am having to go without things I really need.

/s/ _____
Nancy Williams

Sworn to and subscribed before me this the 8th day of
March 2022.

/s/ _____
NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: 10/12/2025

JA56

**[DOCUMENT AVAILABLE IN TRIAL
COURT RECORD]**

JA57

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

**PLAINTIFF RAYMOND WILLIAMS'
AFFIDAVIT**

State of Alabama *
County of Jefferson *

COMES NOW Raymond Williams, a resident of Jefferson County, Alabama, who is of lawful age, and being duly sworn, deposes and says as follows:

1. I am one of the Plaintiffs in this matter challenging delays by the Alabama Department of Labor and the bad notices they send.
2. In summer 2020, I contracted COVID over the summer of 2020 and was in the ICU on a ventilator for over a month.
3. My application for unemployment compensation was denied.

JA58

4. I requested a hearing and then got COVID and received notice of his hearing while I was in the hospital.
5. I was unaware of the hearing after I was eventually discharged from the hospital, so I missed the hearing.
6. My mail was also delayed during that time.
7. In any case, I was on oxygen and receiving a doctor's care at home and would have been unable to functionally participate.
8. I still have trouble breathing and doing basic everyday tasks.
9. I am on an oxygen tank 24/7 currently.
10. I sent in a new hearing request detailing my situation.
11. I received a notice from ADOL on Saturday, dated March 5, 2021, saying that the Board of Appeals would not hear my case because I did not appeal to the board of appeals by October 8, 2020. ADOL did not consider that my stay in ICU justified the late filing.
12. I am still unemployed to date.
13. I have applied for disability, but my review hearings keep getting postponed.

JA59

14. Thus, I currently have no source of income other than food stamps.
15. I am currently not able to work due to all of my medical conditions. I have many pervasive, long-term conditions now.
16. I am suffering ongoing economic harm due to ADOL's failure to give me a new hearing.
17. I am currently unable to afford my rent. I have received rental assistance, but otherwise would most likely have been evicted and become homeless.
18. I'm currently behind on my car payments as well. My car may become repossessed soon.
19. I've had to sell personal possessions, including my grandmother's necklace, and my baseball card collection, which were items of great personal significance to me.
20. Prior to the pandemic, I planned to buy a house or open a food truck. I have had to spend any savings that I had.
21. This pandemic has truly affected every aspect of my life for the worse. I am struggling to make it day to day.

I, RAYMOND WILLIAMS, a Plaintiff in the above-named suit, do hereby swear or affirm that the foregoing is true to the best of my knowledge.

JA60

/s/
Raymond Williams

Sworn and subscribed to me on this 11th day of March
2022

/s/
Notary Public
My Commission Expires: 8/25/2024

JA61

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

PLAINTIFF CYNTHIA HAWKINS' AFFIDAVIT

State of Alabama *
County of Mobile *

COMES NOW CYNTHIA HAWKINS, a
resident of Mobile County, Alabama, who is of lawful
age, and being duly sworn, deposes and says as follows:

1. I am one of the plaintiffs in this matter challenging delays by the Alabama Department of Labor (ADOL) and the bad notices that they send.
2. In March 2020, after I went on medical leave from my job as a cashier due to being at-risk of contracting COVID-19, I applied for unemployment compensation benefits. ADOL found me eligible. I understood ADOL would pay me benefits for a year. However, it paid me until early August 2020.

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3. ADOL cut off my benefits without notice. ADOL did not tell me why my benefits were cut off.
4. I made numerous phone calls to ADOL to try to find out why it stopped my benefits. It was hard to get someone by phone. Therefore, I lined up outside of a regional ADOL office in very cold weather with others who had been in line since 2:00 am. that morning. ADOL would only see the first twenty people in line. I met with someone and learned that I needed to submit a doctor's notice to ADOL.
5. I submitted a doctor's form to ADOL that my doctor completed. The form detailed that I had several underlying medical conditions and could not work with the general public.
6. ADOL later told me that I was ineligible for benefits and that I had been overpaid benefits.
7. In February 2021 and March 2021, I filed an appeal with ADOL. However, I never received a hearing date.
8. After my benefits were cut off, I experienced a lot of hardship. I almost got put out of my house because ADOL cut off my benefits. I had to depend on my family to take care of my basic necessities. I sought help from Mobile Community Action to pay my utility bills multiple times.
9. In May 2021, I returned to the workforce to avoid being homeless. However, I was forced to find

JA63

places to work that had no contact with the general public.

10. In October 2021, I received a Notice of Intent to Recover Past Due Overpayment from ADOL. The demand letter stated that I owed ADOL \$12,525.00. I requested a review of the debt because I believe the debt is not owed. However, I have not received any response from ADOL.
11. To date, I am waiting for ADOL to acknowledge my appeal, schedule a hearing, and to respond to my request for a review of the debt I believe is not owed.

/s/
Cynthia Hawkins

Sworn to and subscribed before me this the 15th day of March 2022.

/s/
NOTARY PUBLIC, STATE AT LARGE
My Commission Expires: 10/12/2025

JA64

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

PLAINTIFF SENATA WATERS' AFFIDAVIT

State of Alabama *
County of Jefferson *

COMES NOW Senata Waters, a resident of
Jefferson County, Alabama, who is of lawful age, and
being duly sworn, deposes and says as follows:

1. I am one of the Plaintiffs in this matter
challenging delays by the Alabama Department
of Labor and the bad notices they send.
2. I worked security for about 3 years.
3. I was terminated due to alleged misconduct. I
never received any verbal or written write-ups.
4. ADOL denied my application for unemployment
compensation.

JA65

5. I filed an appeal in August 2020 and have yet to receive a response from ADOL.
6. Since that time, the reason showing for my termination has changed several times from misconduct to voluntary quit. I did not voluntarily quit my job.
7. I was able to get through ADOL's new phone system, but the person who answered was only able to tell me that ADOL was backlogged, so I should continue to file weekly.
8. Because I am over 65 years old, I am at an elevated risk of contracting COVID.
9. I have been unable to find work. I remain unemployed. My only source of income is \$888/mo from Social Security.
10. I have endured financial hardship due to the Department of Labor's failure to schedule a timely hearing. I am behind on several credit card bills and they are going into collections. I'm also not able to afford repairs on my house. I do not own a vehicle and would like to purchase one if I could afford it.

I, SENATA WATERS, a Plaintiff in the above named suit, do hereby swear or affirm that the foregoing is true to the best of my knowledge.

/s/
Senata Waters

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Sworn and subscribed to me on this 11th day of March
2022.

/s/_____

Notary Public

My Commission Expires: 8/25/2024

JA67

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

PLAINTIFF LATARA JACKSON'S AFFIDAVIT

State of Alabama *
County of Jefferson *

COMES NOW Latara Jackson, a resident of Jefferson County, Alabama, who is of lawful age, and being duly sworn, deposes and says as follows:

1. I am one of the Plaintiffs in this matter challenging delays by the Alabama Department of Labor and the bad notices they send.
2. I worked for a parking company when I was laid off due to Covid-19.
3. I was instructed by my employer to file for unemployment because they weren't sure when we would resume work.
4. ADOL found me to be eligible for unemployment until my employer said that I voluntarily quit.

JA68

5. I was deemed to have committed fraud and was assessed an Overpayment of \$22,600. I filed an appeal in June 2021 and have yet to receive a response from ADOL as to the status of my appeal.
6. I received another notice in September 2021 that stated I had committed fraud which confused me because it said I needed to appeal which I had already did.
7. I appealed again and have yet to hear back.
8. I received a copy of the Benefits, Rights and Responsibilities Handbook after I filed for Unemployment Compensation.
9. I found the handbook to be confusing.
10. I believed that I required assistance in understanding the handbook and tried to contact the Alabama Department of Labor but could never get anyone to explain it to me.
11. The handbook was not helpful as I couldn't understand what it was saying nor how it related to my case with the Department of Labor. I couldn't figure out how to show the Alabama Department of Labor that I had not quit and was, in fact, laid off by my employer.

I, LATARA JACKSON, a Plaintiff in the above named suit, do hereby swear or affirm that the foregoing is true to the best of my knowledge.

JA69

/s/
Latara Jackson

Sworn and subscribed to me on this 25th day of March
2022.

/s/
NOTARY PUBLIC

My Commission Expires: 8/25/2024

JA70

IN THE CIRCUIT COURT OF MONTGOMERY
COUNTY, ALABAMA

CV-2022-900134

Aaron Johnson, et al.,

Plaintiffs,

vs

Fitzgerald Washington, Secretary of Alabama
Department of Labor and Alabama Department
of Labor,

Defendants.

PLAINTIFF JOYCE JONES' AFFIDAVIT

State of Alabama *
County of Mobile *

COMES NOW JOYCE JONES, a resident of
Mobile County, Alabama, who is of lawful age, and being
duly sworn, deposes and says as follows:

1. I am one of the plaintiffs in this matter challenging delays by the Alabama Department of Labor and the bad notices that they send.
2. I applied for unemployment compensation after losing my job due to COVID.
3. The Alabama Department of Labor approved my application and paid me for awhile.
4. It then stopped paying me without sending a notice explaining why.

JA71

5. After I went at least six weeks signing up for benefits and calling trying to find out why they were not being paid, the Department reinstated m[y] benefits.
6. I never found out why the benefits stopped, never got any notice and never could get through at the claims inquiry number.
7. I read through what the Alabama Department of Labor calls the yellow sheet. It was confusing, but I read it through it. I wanted to try to be sure of all that I had to do, which was different from what I had to do when I had applied before.

/s/
Joyce Jones

Sworn to and subscribed before me this the 28th day of March 2022.

/s/
Notary Public, State at Large
My Commission Expires: 03/11/2025