

**STATE OF MICHIGAN
IN THE COURT OF CLAIMS**

KELLIE SAUNDERS et al,

Plaintiffs,

Case No. 22-000007-MM

Hon. Brock A. Swartzle

STATE OF MICHIGAN DEPARTMENT
OF LABOR AND ECONOMIC
OPPORTUNITY - UNEMPLOYMENT
INSURANCE AGENCY, and JULIE DALE,
in her official capacity,

Defendants.

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**APRIL 5, 2022, MOTION FOR LEAVE TO FILE AN AMICI CURIAE BRIEF
ON BEHALF OF MICHIGAN STATE PLANNING BODY AND MICHIGAN LEAGUE
FOR PUBLIC POLICY IN SUPPORT OF PLAINTIFFS' MOTION FOR INJUNCTIVE
RELIEF**

The Michigan State Planning Body and the Michigan League for Public Policy, by and through their attorneys, Michigan Poverty Law Program and Sugar Law Center for Economic & Social Justice, move for leave to submit an Amici Curiae brief in the above-captioned case. In further support of its motion, Amici state:

I. THE PROPOSED AMICI CURIAE

The Michigan State Planning Body (MSPB) is an unincorporated association of about 35 individuals who are leaders in the judiciary, the State Bar, state and regional advocacy programs, and community organizations who are interested in Michigan's indigent civil legal aid and

indigent defense systems. MSPB acts as a forum for planning and coordinating the state's efforts to deliver civil and criminal legal services to the poor; its mission is to plan, organize, and coordinate an effective legal services delivery system in the State of Michigan. The Michigan League for Public Policy (MLPP) is a Michigan-based, non-partisan policy institute dedicated to economic opportunity for all including, but not limited to, examining the impact of state revenues and expenditures on low-income people and by advocating for families and individuals in poverty or facing poverty. As an organization, MLPP works with 2,500 organizations, human services professionals, concerned citizens, businesses, labor groups, policymakers, and others to ensure economic security for the people of Michigan. MLPP has served the Michigan population through its policy and community relationships since 1912.

Central to Amici are their commitment to ensuring equal access to the legal system for low-income residents of Michigan, including access to public programs meant to assist such residents in keeping their homes, putting food on the table, and accessing medical care. Unemployment-related issues affect hundreds of thousands of Michigan families every year, and unemployment leaves Michigan citizens and their families in precarious financial situations. The Plaintiffs in this case are the very population that Amici serve. They and their families have been greatly affected by the Unemployment Insurance Agency's actions, which put them at risk for health issues, food insecurity, homelessness, bankruptcy, foreclosure, and other issues.

This case has implications that go beyond the immediate issues, and Amici are uniquely experienced in both public benefits and state policies that protect low-income households from spiraling into economic despair. During the pandemic, household income was eliminated without warning as businesses were forced to shut down and self-employed workers lost their customers. Federal unemployment benefits and other state and federal programs provided resources to

individuals and families that would otherwise have experienced hunger and homelessness; these programs provided lifelines that did not otherwise exist. Legal Aid programs and other non-profit agencies were flooded with the newly poor seeking guidance on how to proceed in this new landscape. Amici experienced a sharp uptick in requests for assistance, advice and clarification as the pandemic unfolded, and continue to be inundated as policies are revised and reversed.

This case raises issues in a dusty corner of justice. Pandemic unemployment assistance (PUA) was created in 2020 by the CARES Act in just five pages of a 351-page document. For the first time, unemployment benefits were offered to part-time workers and the self-employed, groups not covered by traditional state unemployment programs. Because Amici are part of a small and distinct group that monitor and advocate for policies in this area, they are uniquely positioned to provide this Court with the context it needs. For the past 24 months, their members have been called upon to become experts in this area, and now bring this expertise to the Court.

II. GROUNDS FOR AMICUS FILING

In requesting leave to participate as Amici in this case, Amici seek to advance the interests of its members and the public, particularly its low-income members, in guaranteeing that all people receive the benefits and protections required under the law. Amici believe that it is necessary for the Court to grant Plaintiffs' Motion for Injunctive Relief in this case in order to avoid irreparable harm to Plaintiffs and those similarly situated.

In its brief, Amici will address the systemic deprivations of justice and equity embedded in the Agency's administration of public funds. The issues raised in this case have broad implications not just for the Plaintiffs, but for all class members. The goal of the unemployment insurance program is to provide temporary income to individuals who have been separated from their employment through no fault of their own. The Agency's failure to abide by the basic

principles initiated by the legislature regarding overpayments sets a dangerous precedent by creating an unstable environment for individuals that rely on these benefits during times of unemployment and then, without due process, are forced to pay them back. It is unconstitutional to deprive citizens of property without adequate notice and an opportunity for a fair hearing. In this instance, Defendants have abruptly taken funds out of the hands of claimants who were previously declared eligible for unemployment benefits. These individuals did nothing wrong and are now being punished without a chance to be heard, a right guaranteed by law. Defendants' assert that they have 12 months to review eligibility and overpayments, but Plaintiffs have no such luxury; their day-to-day obligations cannot be put on hold. Current income has already been budgeted, and past income has already been spent. Defendants cannot be permitted to sort out its robotic disorder on the backs of individuals who have everything to lose and no power to stop the train that is coming. It is unjust and unfair and must be stopped.

Pursuant to Local Rule 2.119(A)(2) on April 4, counsel for the MSPB and MLPP sought concurrence in the relief sought in this motion from both Plaintiffs and Defendants. Counsel for Plaintiffs concurred with this Motion; counsel for Defendants were unable to do so.

The Michigan State Planning Body and Michigan League for Public Policy respectfully request that the Court grant their request to participate as Amici Curiae and accept the proposed brief.

Respectfully Submitted,

April 5, 2022

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**MICHIGAN STATE PLANNING BODY AND MICHIGAN LEAGUE FOR PUBLIC
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INTEREST OF AMICI CURIAE

Plaintiffs have sought a preliminary injunction for issues that affect thousands of Michigan families. The Michigan State Planning Body (MSPB) and Michigan League for Public Policy (MLPP) are Michigan-based, non-partisan entities dedicated to access to justice and equity as well as economic opportunity for all. MSPB acts as a forum for planning and coordinating the state’s efforts to deliver civil and criminal legal services to the poor; its mission is to plan, organize, and coordinate an effective legal services delivery system in the State of Michigan. As an organization, MLPP works with 2,500 organizations, human services professionals, concerned citizens, businesses, labor groups, policymakers, and others to ensure economic security for the people of Michigan. MLPP has served the Michigan population through its policy and community relationships since 1912. Both assist Michigan residents by advocating for families and individuals in or facing poverty. Unemployment-related issues affect

hundreds of thousands of Michigan families every year, and never more so than during the unprecedented times of the past two years. Unemployment leaves Michigan citizens and their families in precarious financial situations. The Plaintiffs in this case are the very populations that MSPB and MLPP serve, and the Unemployment Insurance Agency's actions have exposed them to the prospects of food insecurity, homelessness, bankruptcy, foreclosure, poor credit and other issues. In addition, for the reasons stated below, the impact of the Agency's action falls disproportionately on minority households.

ARGUMENT

I. Introduction

Most American households live paycheck to paycheck. "Extra" earnings are often spent before the check arrives. A 2017 study found that 78% of U.S workers live this way. More than 1 in 4 do not set aside any savings each month.¹ Recent studies have found an increase in financial insecurity, especially among younger workers in the leisure and hospitality industries, where the median worker age is 31.9 years.² For many Michigan workers like the ones in the study, earnings were abruptly cut off in March of 2020. At that time, the federal and state governments responded quickly, dispersing billions of dollars of pandemic unemployment assistance. This replacement income stopped evictions and foreclosures, put food on the table, and literally saved lives. It fortified Michigan's economy. Now, the Michigan Unemployment Insurance Agency (Agency) is undermining these efforts to devastating effect. It is clawing back benefits issued to

¹ *Living Paycheck to Paycheck is a Way of Life for Majority of U.S. Workers...*

<https://press.careerbuilder.com/2017-08-24-Living-Paycheck-to-Paycheck-is-a-Way-of-Life-for-Majority-of-U-S-Workers-According-to-New-CareerBuilder-Survey>, (accessed March 29, 2022).

² *The Pandemic's Perfect Storm: Examining COVID-19's Impact on Gen Z and Millennials.*

<https://static1.squarespace.com/static/5f871465771d18355319b71c/t/5fc56cb63c6ccf69f3160d50/1606773957736/The+Pandemics+Perfect+Storm+Report+by+Georgetown+University.pdf>,

hard-working Michiganders with little or no review. The repossession is accompanied by threats of criminal sanctions and garnishments. Chaos had led to terror.

Michiganders who are caught up in this mayhem have lost all faith in their government. Some have been forced into early retirement, others have taken on high interest loans to pay what the Agency says is owed. Many have no way to pay the money back and fear foreclosure, eviction, and homelessness. The Agency has become the enemy. There is only one reasonable course of action – STOP. Pause all collection efforts until the state has the time necessary to sort itself without crushing thousands of Michigan families.

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Act was proposed and enacted in record time, devoting a scant five pages to pandemic unemployment assistance (PUA). To assist states with implementation of the PUA program, the DOL issued at least 12 Unemployment Insurance Program Letters (UIPLs), some of which were changes to prior guides. The states were left to create new policies and procedures in the face of an unprecedented number of applications, outdated software, and an inadequate administrative workforce. Michigan's online application process crashed because of the volume of new applications.

Despite this chaotic background, including the announcement in June 2021 of a retroactive change in eligibility impacting 600,000 claimants³, the Agency is now sending out collection letters and garnishing income with little to no idea whether claimants have been overpaid. Its systems were overwhelmed, its employees were inadequately trained, its notices are confusing and inaccurate. Michigan has a recent and painful history of automated collection

³ *Michigan changed unemployment rules. Now 648,000 may have to repay benefits.* Bridge Magazine, July 13, 2021. <https://www.bridgemi.com/business-watch/michigan-changed-unemployment-rules-now-648000-may-have-repay-benefits>, last visited March 30, 2022.

practices that inflicted irreparable harm on thousands of claimants. This is the opportunity to learn from the past and stop Defendants' actions before it is too late. The answer is simple: press pause.

II. The Court should issue a preliminary injunction against the Agency to pause collection activities against the Plaintiffs until they have been afforded an opportunity to be heard because failing to grant injunctive relief will result in the Plaintiffs experiencing irrevocable economic harm.

If the Court does not grant relief by pausing the Agency's unlawful collection activities, thousands of Michigan workers stand to suffer real and lasting economic harm. Due to the impact of the pandemic and the government's public health response, millions of Michiganders were put out of work. At the peak of the pandemic recession, over 23% of Michigan's workforce was receiving unemployment benefits.⁴ Now the Agency is seeking to run the economic engine in reverse against thousands, if not hundreds of thousands, of these same workers without giving them an opportunity to defend themselves.

By issuing the alleged overpayments and unlawfully initiating collections, the Agency threatens the precarious economic status of thousands of workers who are just recovering from the pandemic and now face record-breaking inflation. These benefits were a lifeline for workers who lost their jobs through no fault of their own, allowing them to afford housing, healthcare, and groceries. Facing unprecedented circumstances, unemployment benefit claimants reasonably relied upon the Agency to implement the program adequately and accurately. They had no reason to think that they were not eligible for the benefits they received.

By retroactively denying benefits and seizing income, the Agency will needlessly force economically vulnerable Michiganders into impossible choices with long-lasting repercussions.

⁴ U.S. Dept. of Labor Weekly Claims Data. <https://oui.doleta.gov/unemploy/claims.asp>, last visited April 3, 2022.

Losing a tax refund or a percentage of each paycheck is a steep financial toll to pay, especially when it is unexpected. Plaintiffs are expected to begin repayment without any opportunity to contest the Agency's allegations against them. In fact, the Agency itself advises claimants facing overpayments not to apply for a waiver until their appeal has been heard.⁵

As tax returns and wages continue to be seized, Plaintiffs wait in line for the Agency to sort through its backlog, suffering lost income without an opportunity to be heard. Few workers can withstand a 25% reduction in their wages, and with the average tax refund in Michigan for 2022 at \$2,323 either collection method will inflict substantial financial hardship. Indeed, there is ample evidence to suggest that for many households, absorbing this type of cost would be unfeasible and cause severe financial hardship. According to the Federal Reserve's Report on the Economic Well-Being of U.S. Households in 2020, over a third of households would not be able to cover a \$400 expense without relying on credit cards, borrowing, or other means.⁶ The same report found that more than a quarter of adults had bills they were unable to pay in full that month or were one \$400 setback away from being unable to pay.⁷ To avoid the negative outcomes of being forced to spend less or no money on necessities, many households facing the Agency's collections will be forced to borrow to make up the difference. For Plaintiffs with relatively good access to credit, being forced by the Agency to carry additional debt will inflict costs in interest and fees that will not be recovered when the seized funds are eventually returned.

⁵ *PUA Overpayment and Restitution*. Michigan Department of Labor and Economic Opportunity, online publications. <https://www.michigan.gov/leo/bureaus-agencies/uia/tools/publications/pua-overpayment-and-restitution>, (accessed April 3, 2022).

⁶ *Economic Well-Being of U.S. Households in 2020*. Board of Governors of the Federal Reserve System, May 2021. <https://www.federalreserve.gov/publications/files/2020-report-economic-well-being-us-households-202105.pdf>, last visited April 3, 2022.

⁷ *Id.*

Unemployment benefit claimants are even less likely to be able to cover this expense. Nearly 60% of those receiving benefits belonged to the lower half of the income distribution with a larger proportion of those in the lowest income quartile receiving benefits than any other income group.⁸ While any unexpected expense can be a burden for families, lower-income households do not have any wiggle room in their budget to afford another payment. This is before even considering the impact of a claimant's recent job loss. Workers who lost their jobs in the previous 12 months had a 45% chance of being unable to pay their bills, more than twice the risk compared to those who maintained employment.⁹ The Agency's unlawful collections will force households to miss payments, incur penalties, and turn to bankruptcy or high-interest lenders to make ends meet. The typical payday loan in Michigan carries the equivalent of a 370% annual rate of interest.¹⁰

Many of these choices will come with long-term consequences. Even if the Plaintiffs' benefits are later returned, the harm from the initial taking will follow them for months or years to come. The question is not whether they will face one of these choices but rather which one and how many.

A. If the Court fails to grant injunctive relief, Plaintiffs will suffer irrevocable harm because they will be unable to afford housing costs and may face eviction and the lasting harms associated with eviction.

For renters and homeowners alike, Michiganders have seen their housing costs skyrocket

⁸ *Characteristics of People Receiving Regular Unemployment Benefits in July 2020*. Congressional Budget Office, Letter from Director Swagel to Chairman Neal of the U.S. House Committee on Ways and Means. <https://www.cbo.gov/system/files/2020-07/56447-CBO-UI-letter.pdf>, (accessed April 3, 2022).

⁹ *Economic Well-Being of U.S. Households in 2020*. Board of Governors of the Federal Reserve System, May 2021. <https://www.federalreserve.gov/publications/files/2020-report-economic-well-being-us-households-202105.pdf>, (accessed April 3, 2022).

¹⁰ *Ballot proposal would cap 'predatory' interest rate for payday loans*. Robinson, Feb. 23, 2022 (updated Feb. 24, 2022). <https://www.mlive.com/public-interest/2022/02/ballot-proposal-would-cap-predatory-interest-rates-for-payday-loans.html>, (accessed April 3, 2022).

in recent years. Between 2020 and 2021 alone, the average rent in Michigan for a one-bedroom apartment rose by 15.71% up to \$1194 per month.¹¹ In the same period, the median price of Michigan houses rose by 18% up to \$228,000.¹² These increases in the costs of shelter will force Michigan residents to spend an increasingly large portion of their income on staying in their current home. As the proportion of income spent on housing increases, Michigan residents have even less room in their budgets to absorb expenses that the Agency's unlawful and premature collections will create.

Being evicted from your home is a traumatizing experience and carries long-lasting harms. Evidence on the impact of evictions increasingly point to eviction being a cause of poverty as much as a symptom.¹³ After an eviction, people are more likely to lose their jobs¹⁴, become depressed¹⁵, and experience poor health¹⁶. When families are forced to move because of an eviction, the neighborhoods they move to tend to be poorer and have more crime.¹⁷ Those in

¹¹ *Rents are climbing, see where Michigan ranks compared to other states.* Lindsay Moore, March 23, 2022. <https://www.mlive.com/public-interest/2022/03/rents-are-climbing-see-where-michigan-ranks-compared-to-other-states.html>, (accessed April 3, 2022).

¹² *Competition was steep and prices soared in 2021. Michigan's 2022 housing market will likely be the same.* Lindsay Moore, Jan. 2, 2022. <https://www.mlive.com/public-interest/2022/01/competition-was-steep-and-prices-soared-in-2021-michigans-2022-housing-market-will-likely-be-the-same.html>, (accessed April 3, 2022).

¹³ *Eviction and the Reproduction of Urban Poverty.* Matthew Desmond, *American Journal of Sociology* 118, no. 1 (July 1, 2012): 88–133; *Housing, Poverty, and the Law.* Matthew Desmond and Monica Bell, *Annual Review of Law and Social Science* 11, no. 1 (2015): 15–35; *Forced Displacement From Rental Housing: Prevalence and Neighborhood Consequences.* Matthew Desmond and Tracey Shollenberger, *Demography* 52, no. 5 (October 2015): 1751–1772.

¹⁴ *Who Gets Evicted? Assessing Individual, Neighborhood, and Network Factors.* Matthew Desmond and Carl Gershenson, *Social Science Research* 62 (February 1, 2017): 362–377.

¹⁵ *The Threat of Home Eviction and Its Effects on Health through the Equity Lens: A Systematic Review.* Hugo Vásquez-Vera, Laia Palència, Ingrid Magna, Carlos Mena, Jaime Neira, and Carme Borrell, *Social Science & Medicine* (1982) 175 (2017): 199–208.

¹⁶ *Eviction's Fallout: Housing, Hardship, and Health.* Matthew Desmond and Rachel Kimbro, *Social Forces* 94 (February 24, 2015);

¹⁷ *Forced Displacement From Rental Housing: Prevalence and Neighborhood Consequences.* Matthew Desmond and Tracey Shollenberger, *Demography* 52, no. 5 (October 2015): 1751–

the Plaintiff class who face eviction due to the Agency's premature and unlawful collections will carry these consequences regardless of whether their seized funds are eventually returned. The harm has already been done.

B. If the Court fails to grant injunctive relief, Plaintiffs will suffer irrevocable harm because they will be forced to delay or defer medical treatments as they reduce spending on health care.

If the Court fails to grant injunctive relief for the Plaintiffs, they will suffer irrevocable physical harm as a result being forced to delay or defer medical treatment as they cut spending on health care to make up for the Agency's collections. Despite policy interventions such as the Affordable Care Act, health care and dental costs remain unaffordable for many U.S. adults.¹⁸ Nearly half of insured adults report difficulty affording out-of-pocket costs not covered by their insurance while 26% report difficulty paying for prescription drugs.¹⁹ Due to the high cost, over half of all U.S. adults report skipping or delaying some type of medical care.²⁰ That figure rises to 63% for adults in households making less than \$40,000 per year.²¹ These outcomes are even worse for those who are uninsured, a position that many of the Plaintiff class are likely to find themselves in as claims for unemployment benefits are predicated on a separation from work.

Even if the Plaintiff's funds are eventually returned, it will not erase the long-term health impacts of delaying medical treatment. These are avoidable harms that the Court can prevent by granting injunctive relief until the Agency can determine whom, if any, of the Plaintiffs owe an overpayment.

1772.

¹⁸ *Americans' Challenges with Health Care Costs*. Kaiser Family Foundation, Published December 14, 2021. <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/>, (accessed April 3, 2022).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

III. The Court should issue a preliminary injunction against the Agency to pause collection activities against the Plaintiffs until they have been afforded an opportunity to be heard because failing to grant injunctive relief will erode trust in the government and prevent future deserving claimants from applying for benefits to which they are entitled.

Unemployment benefits are intended to prevent hunger, to ensure a minimum level of economic security for families and are critically important to the wellbeing of the named Plaintiffs and potential class members. These individuals were found eligible for benefits by the Agency, claims were paid, and the money was spent. When benefits are seized without the chance for a meaningful hearing, irreparable harm will result.²² A purpose of procedural due process is to convey to the individual a feeling that the government has been fair, as well as to minimize the risk of mistaken deprivations of protected interests.²³

The right to due process includes the right to a meaningful opportunity to be heard regarding whether the state properly denied unemployment benefits. For the notice and opportunity to be heard to be meaningful, the notice must provide information that is specific, detailed, and individualized enough to be able to determine both the basis for the state's action and whether, or how, to contest it. None of these requirements were met. Notices were contradictory, confusing, and voluminous. Claimants received conflicting notices and contradictory information, often within the same week.

The Agency has yet to process thousands of protests and appeals. It is important to note that only the Agency can refer a protest for an administrative hearing, yet automated collections continue while appeals wait for referral in the Agency's backlog. Plaintiffs are appropriately

²² *Barry v. Corrigan*, 79 F. Supp. 3d 712 (2015)

²³ *Carey v. Piphus*, 435 U.S. 247, 266-67(1978) (holding “the denial of procedural due process should be actionable . . . without proof of actual injury)

afraid of being unable to buy food, pay for housing, utilities, and more because of the Defendants' automated collection systems. These are legally cognizable injuries.²⁴

For the Agency to satisfy its duty under the constitution, unemployment claimants must be provided due process throughout the overpayment determination, waiver, and collection process. To avoid administrative burdens and unnecessary stress on claimants, this court should mandate that collection cease until the overpayment determination and waiver process is final. This means collection must cease while there is a pending appeal of any kind. Collection should only proceed when there is a final determination that the debt is in fact owed and all appeals are exhausted.²⁵ From one side of its mouth, Defendants assert that this is their practice, yet from the other it continues to threaten claimants with collection letters and to garnish their wages and tax refunds. It is concerning that it is unknown how widespread this practice is, due to the lack of transparency exhibited by Defendants, and their unwillingness to work with claimant advocates.

The Agency is inaccessible and impenetrable. This is anathema to an agency that is tasked with fairly and equitably managing and distributing billions of taxpayer dollars. There is no accountability, no glimpse behind the curtain. Public benefits must not be administered in a secret fashion. Until the claims of the Plaintiffs have been heard and ruled upon, all collection action must be stopped. The devastation that will otherwise ensue will not be reversible.

For many Michiganders, the Agency's actions are all too familiar. Those who faced false robo-fraud accusations after relying on unemployment benefits during the 2008 recession still bear the scars of MiDAS' golden touch. Indeed, it would not be surprising if some members of the Plaintiff class had been affected by robo-fraud as well. If collection efforts are not paused to

²⁴ *Id*

²⁵ Unemployment Insurance Program Letter (UIPL) N0. 1-16, *available at* https://oui.doleta.gov/dmstree/uipl/uipl2k16/uipl_0116.pdf

allow due process to prevail, thousands of Michigan workers will be permanently traumatized by their treatment at the hands of their government. Workers who lose their job through no fault of their own will undoubtedly go without the benefits they are entitled to if it will mean avoiding mistreatment at the hands of the Agency. The Court must save the Agency from itself and prevent yet another scandal from damaging its already fragile reputation.

IV. The Court should issue a preliminary injunction against the Agency to pause collection activities against the Plaintiffs because the Agency's actions cause disparate harm to minority communities

Because of racism and segregation, Black workers have higher rates of unemployment, longer durations of unemployment, and less funds to fall back on.²⁶ Their unemployment rate is consistently nearly double that of white workers. Black and Latinx workers are also more likely to be unemployed and underemployed longer than white workers.²⁷ As of 2019, 26 percent of Black unemployed workers were out of work for more than 26 weeks, compared to 19 percent of white workers²⁸ (Michigan currently offers 20 weeks of unemployment, while PUA provided up to 79 weeks of unemployment benefits). Other factors influence the high unemployment rates for minority group members, including education, concentration of employment in essential jobs, and types of occupations.²⁹ As a result, unemployment benefits were more likely to help minority households already struggling to find and keep work. The impact was quantifiable,

²⁶ Evermore, Michele. *Unemployment Payments Are Running Out for Millions, Even as Long-Term Unemployment Surges*. Available at <https://www.nelp.org/blog/unemployment-payments-running-millions-even-long-term-unemployment-surges/> (accessed on April 5, 2022)

²⁷ State of Working America Data Library, available at <https://www.epi.org/data/#?subject=underemp>, (accessed on April 2, 2022).

²⁸ Percentage of the unemployed who were jobless for 27 weeks or longer in the U.S. in 2020 by race and ethnicity. <https://www.statista.com/statistics/218655/long-term-unemployment-rate-in-the-us-by-race-and-ethnicity/> (accessed on April 5, 2022)

²⁹ Early evidence of the impacts of COVID-19 on minority unemployment. Kenneth Couch, Robert Fairlie and Hunan Xu, *Journal of Public Economics*, Dec. 2020, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7489888/> (accessed on April 2, 2022).

lowering the number of Black people living in poverty by 1.1 million and Latinx people by 1.2 million.³⁰ As with previous downturns in the economy, Black and Latinx workers were hit the hardest by the pandemic. Without this influx of federal money, the devastation would have been much worse. If the collection actions of the Agency are not stopped, this lifeline will have been for naught.

Racial health inequities impact millions of people, and COVID impacted these communities in the same harmful fashion. This was due to multiple factors, including economic, health and environmental disparities.³¹ Racial minorities and poor people in urban settings live in more crowded conditions and are more likely to be employed in public-facing occupations that make physical distancing impossible.³² A 2018 report by the Urban Institute notes that of 153 million workers, 31 percent of Latinx workers and 33 percent of Black workers were in essential jobs that required them to work in person and close to others. By contrast, 26 percent of White workers had similar jobs.³³ Racism has a known history of negatively impacting the physical and mental health of communities of color; the pandemic exacerbated what was already in place. If

³⁰ *Expanded Unemployment Insurance Benefits During Pandemic Lowered Poverty Rates Across All Racial Groups*. United States Census Bureau, available at <https://www.census.gov/library/stories/2021/09/did-unemployment-insurance-lower-official-poverty-rates-in-2020.html>, (accessed on April 2, 2022)

³¹ Novello, *Who is Receiving Unemployment Insurance, and Who Just Lost \$600 per Week?* The Century Foundation. Available at <https://tcf.org/content/commentary/receiving-unemployment-insurance-just-lost-600-per-week/> (accessed on April 3, 2022)

³² *Introduction to COVID-19 Racial and Ethnic Health Disparities*, Centers for Disease Control and Prevention. Dec. 10, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/index.html> (accessed on April 4, 2022)

³³ Dubay et al, *How Risk of Exposure to the Coronavirus at Work Varies by Race and Ethnicity and How to Protect the Health and Well-Being of Workers and Their Families*. Urban Institute. Available at <https://www.urban.org/sites/default/files/publication/103278/how-risk-of-exposure-to-the-coronavirus-at-work-varies.pdf> (accessed on April 3, 2022)

the unlawful collection actions of the Agency are not stopped, the disproportionate impact on communities of color will be immediate and profound.

Conclusion and Relief Requested

For all the foregoing reasons, the Michigan State Planning Body and Michigan League for Public Policy urge this Court to grant the injunctive relief requested by Plaintiffs and stop the wrongful collection activities of the Agency before more irreparable harm occurs to the entire population of Michiganders who are wrongfully being persecuted by the Agency.

Respectfully Submitted,

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