

STATE OF MICHIGAN
COURT OF CLAIMS

KELLIE SAUNDERS, et. al.,

Plaintiffs,

v

Case No. 22-000007-MM

STATE OF MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY and JULIA DALE,

Hon. Brock A. Swartzle

Defendants.

**ORDER ON DEFENDANTS' MOTION FOR RECONSIDERATION
AND PLAINTIFFS' MOTION TO COMPEL DISCOVERY**

On July 5, 2022, defendants Michigan Unemployment Insurance Agency and Julia Dale moved for reconsideration of this Court's Opinion and Order dated June 13, 2022. By Order dated July 6, 2022, this Court denied the motion in part, but ordered additional briefing with respect to the scope of the Court's injunctive relief. The parties submitted this briefing, and the matter is now ready for resolution. In the interim, plaintiffs also moved to compel responses to several interrogatories that they had previously served on defendants. This latter matter is also ready for resolution. No hearing is needed on either motion.

With respect to the scope of the Court's injunctive relief, defendants seek clarification on three aspects, namely: (1) to whom the relief applies; (2) timely or untimely challenges; and (3) federal tax intercepts. As to (1), defendants are correct in pointing out that preliminary injunctive relief is not necessarily afforded to putative class members. With that said, the Court determines that, in this case, putative class members are entitled to injunctive relief as to plaintiffs' Count III. Although the Court will consider the question of class certification in the near future pursuant to the parties' stipulated scheduling order, at this stage of the litigation, plaintiffs appear likely to show that such certification is appropriate on Count III. Putative class members will likely suffer irreparable harm to their constitutional right to due process if defendants seek repayment of unemployment benefits from them before completing the administrative-review process. As to the burden on defendants, even setting aside the observation that an Executive-Branch agency has no legal authority to violate anyone's constitutional right to due process, defendants have already been ordered in a separate federal lawsuit to suspend collection activities until a determination becomes final, see Judge Robert H. Cleland's ruling in *Zynda v Zimmer*, order of the United States District Court for the Eastern District of Michigan, issued February 2, 2017 (Case No. 2:15-cv-11449). As noted in this Court's prior Opinion and Order, "This Court does not consider it a

burden for [defendants] to follow the law, whether that law is set forth in a statute or court order.” Opinion and Order of the Court of Claims, issued June 13, 2022 (Case No. 22-000007-MM), p 15. For these reasons, as well as those more fully set forth in its June 13, 2022, Opinion and Order, the Court concludes that preliminary injunctive relief on Count III applies to all putative class members, not just the named plaintiffs.

With respect to (2), plaintiffs concede that the preliminary injunctive relief should apply only to those claimants with timely protests or appeals. The Court agrees with this position, with one caveat—the preliminary injunctive relief also extends to those claimants who file an untimely protest or appeal *and* subsequently establish “good cause” through a redetermination or an administrative law judge’s decision. MCL 421.32a(2), 421.33(2), and 421.34(7). Unless and until good cause is established, however, a claimant who files an untimely protest or appeal is not covered by the preliminary injunction.

With respect to (3), defendants have not shown to this Court’s satisfaction that the preliminary injunction will cause defendants to violate federal law covering the interception of federal tax returns. As plaintiffs point out in their response brief, the requirements imposed by that federal law are limited to certain overpayments that have become final under state law. See 26 USC 6402. The ordered preliminary injunctive relief does not apply to final determinations, as this Court set forth in detail on pages 13-17 of its June 13, 2022, Opinion and Order. If future actions by the federal Department of Labor call into question whether the scope of this Court’s preliminary injunctive relief conflicts with federal law, then defendants may move for further clarification at that time.

Finally, as to plaintiffs’ motion to compel discovery requests: The motion will be denied as to Interrogatory 1, as that interrogatory seeks discovery on Count I, which this Court has dismissed. On Interrogatories 3 through 10, the motion will be dismissed without prejudice. In their response, defendants expressed their willingness to comply with appropriate discovery requests. Importantly, the Court recognizes that, prior to today, defendants did not have the benefit of the Court’s clarification with respect to the scope of preliminary injunctive relief. Now that they have such clarification, the Court is confident that defendants will make appropriate updates to their interrogatory responses. The dismissal of the motion is without prejudice to plaintiffs moving to compel in the future if they believe that defendants’ subsequent discovery efforts have been insufficient.

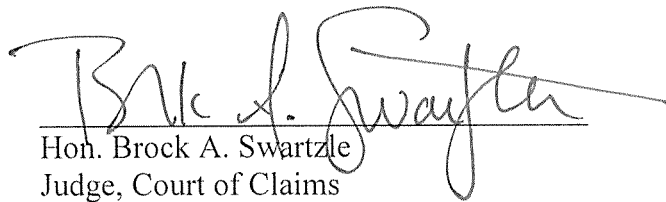
Accordingly, for these reasons, the Court orders as follows:

IT IS ORDERED that defendants’ motion for reconsideration filed on July 5, 2022, is DENIED IN FULL. The Court’s Opinion and Order of June 13, 2022, granting preliminary injunctive relief on Count III, remains in effect, as clarified as to scope by today’s Order.

IT IS FURTHER ORDERED that plaintiffs' motion to compel filed on July 22, 2022, is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED. This order does not adjudicate the last claim and this is not a final order that closes the case.

Date: August 11, 2022


Hon. Brock A. Swartzle
Judge, Court of Claims