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*Attorneys for Plaintiff Center for Workers'
Rights and the Proposed Class*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CENTER FOR WORKERS' RIGHTS, on behalf of
itself and on behalf of all others similarly situated,

Plaintiff,

vs.

CALIFORNIA EMPLOYMENT DEVELOPMENT
DEPARTMENT, and RITA SAENZ, in her official
capacity as Director of California Employment
Development Department,

Defendants.

Case No.:

CLASS ACTION COMPLAINT

(42 U.S.C. §1983)

Unlimited Civil Case

1 **INTRODUCTION**

2 1. Plaintiff Center for Workers’ Rights (“CWR”), a non-profit organization dedicated to
3 providing legal and advocacy assistance to low-income workers, including unemployed workers,
4 brings this class action lawsuit to obtain injunctive relief against defendant Employment
5 Development Department (“EDD”). By this action, CWR seeks a court order requiring EDD to
6 remedy its ongoing violations of the statutory rights of certain economically vulnerable,
7 unemployed Californians in “continuing claims” status who depend upon EDD to obtain timely
8 payment of the unemployment insurance (“UI”) benefits to which they are legally entitled, but
9 whose benefits EDD has stopped without adequate notice based on EDD’s purported concerns about
10 their eligibility for those benefits.

11 **PARTIES**

12 2. Plaintiff Center for Workers’ Rights is a non-profit organization based in Sacramento,
13 California that serves low-wage workers across California, including those seeking access to UI.

14 3. Defendant EDD is the agency of the State of California responsible for administering
15 numerous benefits programs for low-income, unemployed, and other Californians, including
16 California’s UI program.

17 4. Defendant Rita Saenz, sued in her official capacity, is the director of EDD. Director
18 Saenz supervises and has authority over the activities of EDD, including its administration of the UI
19 program. Director Saenz will be referred to together with EDD as “EDD.”

20 **JURISDICTION AND VENUE**

21 5. The Superior Court of the State of California has jurisdiction in this matter pursuant to
22 the California Constitution, Article VI, Section 10.

23 6. Venue is proper in this judicial district and the County of Alameda because the cause of
24 action arose, at least in part, in Alameda County.

25 **FACTUAL ALLEGATIONS**

26 **California’s Unemployment Insurance Program and Associated Legal Requirements**

27 7. UI is a cooperative federal-state program established to provide temporary financial
28 assistance to workers who lose their jobs through no fault of their own.

1 8. Obtaining UI benefits is essentially two-step process. First, a claimant must file with
2 EDD an initial application for benefits demonstrating eligibility. If found eligible to receive
3 benefits, the claimant begins receiving UI payments and thereafter “certifies” their eligibility for
4 continued UI benefits every two weeks. Individuals who have previously been deemed eligible for
5 UI and have begun receiving UI payments are considered to be in “continuing claims” status. This
6 Complaint concerns individuals in such continuing claims status who have received at least one UI
7 benefits payment from EDD and have been wrongfully denied access to their benefits when due.

8 9. California’s UI program is financed in part by grants provided by the federal government
9 pursuant to the Social Security Act, 42 U.S.C. §§501-503. Accordingly, California’s UI program
10 must meet certain minimum standards established by federal statutes and regulations.

11 10. The Social Security Act requires state unemployment programs to maintain “methods of
12 administration ... reasonably calculated to insure full payment of unemployment compensation
13 when due.” 42 U.S.C. §503(a)(1); *see also* 20 C.F.R. §640.3(a) (interpreting this provision “to
14 require that a State law include provision for such methods of administration as will reasonable
15 insure the full payment of unemployment benefits to eligible claimants with the greatest promptness
16 that is administratively feasible”).

17 11. Timely payment of benefits is essential to achieving the purposes of the UI program,
18 which include providing “prompt if only partial replacement of wages to the unemployed, to enable
19 workers ‘to tide themselves over, until they get back to their old work or find other employment.’”
20 *California Dep’t of Hum. Res. Dev. v. Java* (1971) 402 U.S. 121, 131 (quoting H.R. Rep. No. 615
21 (1935) 74th Cong., 1st Sess., 7). As the U.S. Supreme Court has explained, “[t]he basic thrust of the
22 statutory ‘when due’ requirement is timeliness.” *Fusari v. Steinberg* (1975) 419 U.S. 379, 387-88.
23 Only through prompt and dependable payment of benefits can UI have the stabilizing impact on
24 workers’ livelihoods and the economy that Congress intended. *See Java*, 402 U.S. at 130-33.

25 12. The U.S. Department of Labor, the federal agency charged with overseeing state
26 unemployment insurance program compliance with the requirements of the Social Security Act and
27 federal regulation, periodically issues “Unemployment Insurance Program Letters” (“UIPLs”) to the
28 state agencies that administer unemployment compensation, including California’s EDD, to explain

1 the minimum requirements of the Social Security Act and accompanying regulations with which
2 state programs are required to comply.

3 13. In one such UIPL, the Department of Labor recently confirmed that, where the state
4 agency identifies an eligibility issue concerning an individual in continuing claims status, the State
5 may pause payment while verifying a claimant's identity only "as long as the determination is
6 timely." The UIPL then states:

7 For continued claims, timely payment (i.e., payment "when due") means that a
8 determination is made no later than the end of the week following the week in which
9 the issue is detected. If the decision is not issued timely, the state must continue to
10 pay the continued claim and issue a determination as soon as administratively feasible
11 after payment is made. (See UIPL No. 01-16 and UIPL No. 04-01.)

12 U.S. Dep't of Labor, Unemployment Insurance Program Letter No. 16-21: Identity Verification for
13 Unemployment Insurance (UI) Claims (April 13, 2021),
14 https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-21.pdf.

15 14. The Department of Labor has made clear that individuals in continuing claims status are
16 entitled to a "presumption of continuing eligibility. The presumption means that the State has made
17 an initial determination of eligibility and, based on that initial determination and the absence of facts
18 clearly establishing current ineligibility, the State agency presumes the claimant's continued
19 eligibility until it makes a determination otherwise." U.S. Dep't of Labor, Unemployment Insurance
20 Program Letter No. 04-01: Payment of Compensation and Timeliness of Determinations During a
21 Continued Claims Series (Oct. 27, 2000), <https://wdr.doleta.gov/directives/attach/UIPL4-01.cfm>.

22 15. Because making continued payments based on that presumption of continued eligibility
23 may result in an overpayment, the Department of Labor also imposes the following specific notice
24 requirement:

25 In order to notify individuals of their rights and obligations, a State must inform
26 claimants who receive payments under such a presumption that a pending eligibility
27 issue may affect their entitlement and may result in an overpayment. The State may
28 also advise claimants that they may want to defer cashing the unemployment check
until their eligibility has been verified.

Id.

1 **EDD Fails to Meet Its Obligations During the COVID-19 Pandemic**

2 16. As the COVID-19 pandemic swept through the nation, an unprecedented number of
3 Californians suddenly lost their jobs and turned to EDD for the desperately needed emergency
4 financial assistance the UI program is intended to provide.

5 17. As has been well documented in reports by the California State Auditor,¹ news reports,
6 and the hundreds of worker interviews conducted by CWR in the course of its work, EDD struggled
7 to meet this surge in demand, causing extraordinary, irreparable hardship to many California
8 unemployed workers in a time of exceptional need, including to the Californians whose rights are at
9 issue in this lawsuit.

10 18. This lawsuit seeks to address EDD’s ongoing violations of the rights of unemployed
11 workers in continuing claims status whose access to benefits was stopped suddenly, indefinitely,
12 and without notice, on the basis of EDD’s questions regarding their eligibility – a group of
13 Californians who have been particularly hard hit by EDD’s maladministration of the UI program.

14 19. EDD has over the past year engaged in large-scale stop payments of UI benefits to
15 claimants.

16 20. EDD imposed these stop payments without giving eligible recipients adequate notice that
17 their benefits were being stopped, or any opportunity to challenge or dispute the basis for EDD’s
18 decision to stop payment before those benefits were stopped.²

19 21. EDD has not restarted payments for UI recipients whose accounts it stopped, even when
20 EDD has been unable to resolve eligibility issues by the week after the week the eligibility issue
21 was identified.

22
23
24 ¹ Cal. State Auditor, *EDD’s Poor Planning and Ineffective Management Left It Unprepared to*
25 *Assist Californians Unemployed by COVID-19 Shutdowns*, Report 2020-128/628.1 (Jan. 26,
26 2021), <https://www.auditor.ca.gov/reports/2020-128and628.1/index.html> (“Audit Rep. 1”); Cal.
27 State Auditor, *Significant Weaknesses in EDD’s Approach to Fraud Prevention Have Led to*
28 *Billions of Dollars in Improper Benefit Payments*, Report 2020-628.2 (Jan. 28, 2021),
<http://www.auditor.ca.gov/reports/2020-628.2/index.html> (“Audit Rep. 2”).

² See Audit Rep. 2 at 23; Cal. Legislative Analyst’s Office, *Legislative Oversight of Ongoing*
Challenges at EDD at 6 (Jan. 26, 2021), <https://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/Jan%2026%20LAO%20Handout.pdf>.

1 31. This action has been brought and may properly be maintained as a class action against
2 Defendants pursuant to California Code of Civil Procedure §382 because there exists an
3 ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial
4 benefits from certification that render proceeding as a class superior to the alternatives.

5 32. Numerosity and Ascertainability. The size of the Class makes a class action both
6 necessary and efficient. The proposed Class includes thousands of individuals across California who
7 have applied for and received UI benefits. Members of the Class are ascertainable through EDD's
8 records, but are so numerous that joinder of all individual Class members would be impractical.

9 33. Predominant Common Questions of Law and Fact. Common questions of law and fact
10 affecting the rights of all Class members predominate over individualized issues. These common
11 questions include, but are not limited to, whether EDD's systemic policy and/or practice of
12 indefinitely stopping access to UI benefits based on EDD's eligibility concerns violates the rights of
13 claimants in continuing claims status to receive payment "when due" as required by 42 U.S.C.
14 §503(a)(1).

15 34. Typicality: CWR's claims are typical of the "when due" clause claims of the Class as a
16 whole because CWR routinely dedicates resources to assisting California workers who are
17 unemployed; who sought to access the UI benefits to which they were entitled; who initially
18 received those benefits; and who subsequently encountered the obstacles to accessing those benefits
19 described above as a result of EDD's state-wide policies and practices.

20 35. Adequacy of Representation. CWR will fairly and adequately represent the interests of
21 the Class because its interests are consistent with, and not antagonistic to, the interests of the Class,
22 and CWR is represented by counsel who have the requisite resources and ability to prosecute this
23 case as a class action and are experienced attorneys who have successfully litigated other cases
24 involving similar issues, including in class actions.

25 36. Superiority of Class Mechanism. Class certification is appropriate because common
26 questions of law and fact predominate over any questions affecting only individual Class Members.
27 EDD's liability in this case is based on unlawful practices that are generally applicable to the Class,
28 making it appropriate to issue final injunctive relief and corresponding declaratory relief with
respect to the Class as a whole. Class action status is also appropriate because prosecution of

1 separate actions by each of the thousands of affected individuals would create a risk of establishing
2 incompatible standards of conduct for Defendants and inconsistent results for similarly situated
3 Class Members. A class action is superior to other available methods for the fair and efficient
4 adjudication of the controversy set forth herein.

5 **FIRST CAUSE OF ACTION**

6 **FAILURE TO PROVIDE FULL PAYMENT OF UI COMPENSATION WHEN DUE**
7 **(42 U.S.C. §503(A)(1); 42 U.S.C. §1983)**

8 37. CWR repeats and incorporates by reference each and every allegation set forth above, as
9 though fully set forth here.

10 38. 42 U.S.C. §503§(a)(1) requires California to implement such methods of administration
11 as are “reasonably calculated to insure full payment of unemployment compensation when due.”

12 39. UI claimants have a right to timely determination of their claims, as well as timely
13 payment of UI benefits.

14 40. Class Members have filed claims for UI benefits, have received at least one week of
15 benefits, and have then faced lengthy, often indefinite delays in access to the UI benefits to which
16 they are entitled as a result of EDD’s eligibility concerns.

17 41. By denying these Class Members timely access to the UI benefits to which they are
18 entitled during EDD’s eligibility determination, EDD has violated and continues to violate the
19 “when due” clause of the Social Security Act, 42 U.S.C. §503(a)(1).

20 42. CWR, on behalf of itself and the Class, seeks the injunctive relief set forth in the Prayer
21 below.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, CWR, on its own behalf and on behalf of the Class, prays for the following
24 relief:

25 (1) For an order certifying the Class as defined above, appointing CWR representative for
26 the Class, and appointing CWR’s counsel as counsel for the Class;

27 (2) For preliminary and permanent injunctive relief prohibiting Defendants from engaging
28 in the misconduct described herein, including but not limited to ordering Defendants to take each of

1 the following corrective actions:

- 2 (a) When EDD has a question regarding a claimant’s eligibility that pertains only
3 to past weeks, EDD shall continue to make UI benefits payments to the
4 claimant for current and future weeks for which they are eligible for such
5 benefits while resolving the question of eligibility for any past week;
- 6 (b) If EDD has a question regarding a claimant’s eligibility that pertains to
7 current and future weeks and if EDD fails to make a determination regarding
8 such eligibility by the end of the week following the week that EDD first
9 became aware of the issue, EDD shall ensure that the claimant receives
10 “Conditional Payment” pending completion of EDD’s eligibility
11 determination, except where the claimant (1) is fully employed or reported
12 excessive earnings; (2) is serving a prior false statement penalty; (3) has an
13 existing disqualification; or (4) has a prior outstanding overpayment;
- 14 (c) When EDD provides a Conditional Payment, EDD shall provide the claimant
15 with notice of Conditional Payment pending eligibility review (“Notice”).
16 The Notice shall inform the claimant that any Conditional Payment received
17 during EDD’s pending eligibility review will be considered an overpayment
18 if EDD later finds the claimant ineligible, unless the claimant qualifies for a
19 waiver;
- 20 (d) Either in the Notice itself or in a subsequent notification provided, EDD shall
21 inform the claimant of the basis for EDD’s eligibility review and how the
22 claimant may provide information to EDD to resolve such eligibility issues;
- 23 (e) If EDD determines that a claimant must return the Conditional Payment
24 provided to the claimant, EDD shall issue a Notice of Potential Overpayment,
25 which shall include the claimant’s right to request a waiver. If a Notice of
26 Overpayment is subsequently issued, the Notice of Overpayment shall
27 include the claimant’s right to appeal.

28 (3) For reasonable attorneys’ fees and expenses, including but not limited to pursuant to

1 California Code of Civil Procedure §1021.5, 42 U.S.C. §1988, and any other applicable statute or
2 law;

3 (4) For taxable costs;

4 (5) For such further relief that the Court may deem just and proper.

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6 Dated: July 22, 2021



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