

STATE OF MICHIGAN
IN THE SUPREME COURT

GRANT BAUSERMAN and TEDDY
BROE, individually and on behalf of
similarly situated persons,

Plaintiffs-Appellees,

v

MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY,

Defendant-Appellant

Supreme Court No. 160813

Court of Appeals No. 333181

Court of Claims No. 15-202-MM

APPELLANT'S APPENDIX, VOLUME ONE

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Dated: February 10, 2021

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CASE

Judicial Officer	Date Filed	Adjudication	Status
STEPHENS, CYNTHIA	9/9/15	SUMMARY DISPOSITION 8/30/17	CLOSED 8/30/17

PARTICIPANTS

PLAINTIFF 1	BAUSERMAN, GRANT	FILED: 9/9/15
	ATTY: JENNIFER L. LORD # 46912 PRIMARY RETAINED	
PLAINTIFF 2	WILLIAMS, KARL	FILED: 10/19/15
	ATTY: JENNIFER L. LORD # 46912 PRIMARY RETAINED	
PLAINTIFF 3	BROE, TEDDY	FILED: 10/19/15
	ATTY: JENNIFER L. LORD # 46912 PRIMARY RETAINED	
DEFENDANT 1	STATE OF MICHIGAN UNEMPLOYMENT INSURANCE AGENCY	FILED: 9/9/15
	ATTY: PETER T. KOTULA # 41629 PRIMARY RETAINED	

RECEIVABLES/PAYMENTS

	Assessed	Paid/Adjusted	Balance
PTF 1 GRANT BAUSERMAN	\$230.00	\$230.00	\$0.00
DEF 1 STATE OF MICHIGAN UNEMPLOYMENT INSURANCE AGENCY	\$85.00	\$85.00	\$0.00

CHRONOLOGICAL LIST OF ACTIVITIES

Activity Date	Activity		User	Entry Date
9/9/15	SUMMONS AND COMPLAINT	\$150.00	mmla	9/9/15
	PTF 1		mmla	9/9/15
	DEF 1			
9/9/15	JUDICIAL OFFICER ASSIGNED TO STEPHENS, CYNTHIA DIANE 28417		mmla	9/9/15
9/9/15	RECEIVABLE FILING FEE	\$150.00	mmla	9/9/15
9/9/15	PAYMENT	\$150.00	mmla	9/9/15
	RECEIPT NUMBER: COC-LAN.0000868			
	METHOD: CHECK \$150.00			
9/17/15	RETURN OF SERVICE - PERSONAL		mmla	9/17/15
	DEF 1		amd	11/2/16
9/30/15	APPEARANCE		mmla	9/30/15
	DEF 1			
10/5/15	PROPOSED STIPULATION TO EXTEND PAGE LIMIT FOR MOTION TO DISMISS		mmla	10/22/15
	PTF 1			
	DEF 1			
10/5/15	MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO MCR 2.116 (C)(4), (7) AND (8) AND BRIEF IN SUPPORT (ORAL ARGUMENT REQUESTED)	\$20.00	mmla	10/26/15
	DEF 1		mmla	10/26/15
10/5/15	RECEIVABLE MOTION FEE	\$20.00	mmla	10/26/15

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Activity Date	Activity		User	Entry Date
10/8/15	APPEARANCE AND NOTICE OF APPEARANCE OF CO-COUNSEL PTF 1 PTF 2 PTF 3		mmla	10/8/15
10/19/15	AMENDED COMPLAINT - FIRST AMENDED VERIFIED CLASS ACTION COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF, EQUITABLE RELIEF AND DAMAGES PTF 1 PTF 2 PTF 3		mmla mmla	10/22/15 8/4/16
10/22/15	MOTION FOR PROTECTIVE ORDER STAYING DISCOVERY PENDING THIS COURT'S DECISION ON DEFENDANT'S MOTION FOR SUMMARY DISPOSITION AND BRIEF IN SUPPORT DEF 1	\$20.00	mmla mmla	11/2/15 12/10/15
10/22/15	RECEIVABLE MOTION FEE	\$20.00	mmla	11/2/15
10/26/15	PROPOSED STIPULATED ORDER CONCERNING DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT PTF 1 PTF 2 PTF 3 DEF 1		mmla	11/2/15
11/5/15	RESPONSE TO DEFENDANT'S MOTION FOR PROTECTIVE ORDER STAYING DISCOVERY (ORAL ARGUMENT REQUESTED) PTF 1 PTF 2 PTF 3		mmla	11/9/15
11/9/15	MOTION TO DISMISS (SUPPLEMENTAL) PLAINTIFF'S FIRST COMPLAINT PURSUANT TO MCR 2.116(C)(4),(5),(7), AND (8) AND BRIEF IN SUPPORT (ORAL ARGUMENT REQUESTED) DEF 1	\$20.00	mmla mmla	11/10/15 12/5/16
11/9/15	RECEIVABLE MOTION FEE	\$20.00	mmla	11/10/15
11/9/15	PROPOSED STIPULATION AND ORDER TO EXTEND PAGE LIMIT FOR DEFENDANT'S SUPPLEMENTAL MOTION TO DISMISS PTF 1 PTF 2 PTF 3 DEF 1		mmla	11/10/15
11/9/15	PROPOSED STIPULATION AND ORDER TO EXTEND PAGE LIMIT FOR DEFENDANT'S SUPPLEMENTAL MOTION TO DISMISS PTF 1 PTF 2 PTF 3 DEF 1		mmla mmla	11/10/15 11/12/15
11/9/15	AFFIDAVIT (SUPPLEMENTAL) OF TERESA BURNS DEF 1		mmla	11/10/15
11/17/15	MOTION TO REQUEST SCHEDULING CONFERENCE WITH COURT AND BRIEF IN SUPPORT PTF 1 PTF 2	\$20.00	amd amd	11/17/15 11/17/15

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Activity Date	Activity		User	Entry Date
	PTF 3			
11/17/15	RECEIVABLE MOTION FEE	\$20.00	amd	11/17/15
11/17/15	PAYMENT RECEIPT NUMBER: COC-LAN.0000974 METHOD: CHECK \$20.00	\$20.00	amd	11/17/15
11/25/15	RESPONSE TO PLAINTIFF'S NOVEMBER 15, 2015 REQUEST FOR SCHEDULING CONFERENCE WITH THE COURT AND BRIEF IN SUPPORT DEF 1		mmla	11/25/15
12/3/15	PAYMENT RECEIPT NUMBER: COC-LAN.0000997 METHOD: ELECTRONIC FUND TRANSFER \$40.00	\$40.00	mlh	12/3/15
12/4/15	RESPONSE TO DEFENDANT'S MOTION TO DISMISS AND SUPPLEMENTAL MOTION TO DISMISS (ORAL ARGUMENT REQUESTED) PTF 1 PTF 2 PTF 3		mmla mmla	12/10/15 12/10/15
12/4/15	MOTION FOR LEAVE TO FILE RESPONSE TO DEFENDANT'S MOTION TO DISMISS AND SUPPLEMENTAL MOTION TO DISMISS PTF 1 PTF 2 PTF 3	\$20.00	mmla mmla	12/10/15 12/10/15
12/4/15	RECEIVABLE MOTION FEE	\$20.00	mmla	12/10/15
12/8/15	ORDER		mmla	12/8/15
12/8/15	SCHEDULING CONFERENCE LOC: VIA TELEPHONE PTF 1 PTF 2 PTF 3 DEF 1	SET 12/16/15 11:00 A	mmla	12/8/15
12/9/15	MOTION AND BRIEF IN SUPPORT OF CLASS CERTIFICATION PTF 1 PTF 2 PTF 3	\$20.00	mmla mmla	12/15/15 12/15/15
12/9/15	RECEIVABLE MOTION FEE	\$20.00	mmla	12/15/15
12/10/15	PAYMENT RECEIPT NUMBER: COC-LAN.0001011 METHOD: CHECK \$20.00	\$20.00	mmla	12/10/15
12/14/15	CORRESPONDENCE FROM DEFENDANT'S ATTORNEY RE: SCHEDULING CONFERENCE DEF 1		mmla	12/14/15
12/15/15	PAYMENT RECEIPT NUMBER: COC-LAN.0001018 METHOD: CHECK \$20.00	\$20.00	mmla	12/15/15
12/16/15	SCHEDULING CONFERENCE 12/16/15 11:00 AM PTF 1 GRANT BAUSERMAN		mmla	12/28/15

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Activity Date	Activity	User	Entry Date
	PTF 2 KARL WILLIAMS PTF 3 TEDDY BROE DEF 1 STATE OF MICHIGAN UNEMPLOYMENT INSURANCE AGENCY HELD		
12/23/15	RESPONSE TO PLAINTIFF'S MOTION AND BRIEF IN SUPPORT OF CLASS CERTIFICATION DEF 1	amd	12/23/15
12/30/15	REPLY BRIEF IN SUPPORT FOR PLAINTIFFS' MOTION FOR CLASS CERTIFICATION PTF 1 PTF 2 PTF 3	mmla	1/5/16
1/4/16	SCHEDULING ORDER REGARDING MOTION TO DISMISS	mmla mmla	1/4/16 12/5/16
1/4/16	MOTION TO DISMISS (LOCATION: COURTROOM B) LOC: DETROIT COA COURTROOM PTF 1 PTF 2 PTF 3 DEF 1	SET 3/8/16 10:00 A mmla	1/4/16
1/4/16	COMMENT NTC TO APPEAR form was generated.	mmla	1/4/16
1/5/16	PAYMENT RECEIPT NUMBER: COC-LAN.0001038 METHOD: ELECTRONIC FUND TRANSFER \$20.00	\$20.00 mlh	1/5/16
1/6/16	PROPOSED STIPULATED PROTECTIVE ORDER FOR DISCOVERY TO BE RELEASED JANUARY 16, 2016 PTF 1 PTF 2 PTF 3 DEF 1	mmla	1/6/16
1/6/16	LETTER RETURNING DEFENDANT'S OBJECTION	mmla mmla	1/6/16 8/4/16
1/8/16	APPEARANCE AND NOTICE OF APPEARANCE PTF 1 PTF 2 PTF 3	mmla mmla	1/8/16 1/11/16
1/15/16	RESPONSE TO PLAINTIFFS' LIMITED DISCOVERY REQUEST DEF 1	mmla	1/19/16
2/16/16	SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION TO DISMISS AND SUPPLEMENTAL MOTION TO DISMISS (ORAL ARGUMENT REQUESTED) PTF 1 PTF 2 PTF 3	mmla	2/19/16
2/17/16	APPEARANCE AND NOTICE OF APPEARANCE PTF 1	mmla	2/18/16

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	PTF 2 PTF 3		
2/23/16	COMMENT Media request from WXMI-FOX 17	amd	2/23/16
2/29/16	COMMENT NTC TO APPEAR - SCAO form was generated. Location changed from Judge's Conference Room to Courtroom B.	amd amd	2/29/16 2/29/16
3/8/16	MOTION 3/8/16 10:00 AM Motion to dismiss is still pending. HELD	mmla mmla	3/9/16 3/16/16
3/18/16	TRANSCRIPT OF MARCH 8, 2016 MOTION HEARING	amd	4/4/16
4/28/16	OBJECTION TO PLAINTIFFS' 4/22/16 MOTION TO FILE SUPPLEMENTAL AUTHORITY IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS DEF 1	mmla	4/29/16
5/2/16	LETTER RETURNING PLAINTIFFS' MOTION	mmla	5/2/16
5/3/16	MOTION TO FILE SUPPLEMENTAL AUTHORITY IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS PTF 1 PTF 2 PTF 3	\$20.00 mmla mmla	5/3/16 5/3/16
5/3/16	RECEIVABLE MOTION FEE	\$20.00 mmla	5/3/16
5/3/16	PAYMENT RECEIPT NUMBER: COC-LAN.0001234 METHOD: CHECK \$20.00	\$20.00 mmla	5/3/16
5/9/16	OBJECTION AND RESPONSE TO MOTION TO FILE SUPPLEMENTAL AUTHORITY IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS DEF 1	amd mmla	5/9/16 12/5/16
5/10/16	OPINION AND ORDER DEF 1	mmla	5/10/16
6/2/16	PROPOSED STIPULATED ORDER OF CHANGE OF DESIGNATION OF PRIMARY ATTORNEY PTF 1 PTF 2 PTF 3	mmla	6/2/16
6/3/16	CLAIM OF APPEAL DEF 1	\$25.00 mmla	6/3/16
6/3/16	RECEIVABLE APPEALS FEE	\$25.00 mmla	6/3/16
6/3/16	COMMENT NOTIFICATION form was generated.	mmla	6/3/16
6/3/16	ADMINISTRATIVE ACTION DEF 1 STATE OF MICHIGAN UNEMPLOYMENT INSURANCE AGENCY DISPOSITION: STAY OF PROCEEDINGS	mmla	6/3/16
7/1/16	TRANSCRIPT FOR THE MOTION TO DISMISS PROCEEDING ON MARCH 8, 2106 AT 10:00AM	amd	7/8/16
7/26/16	PAYMENT	\$25.00 mlh	7/26/16

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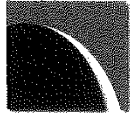
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Activity Date	Activity	User	Entry Date
	RECEIPT NUMBER: COC-LAN.0001376 METHOD: ELECTRONIC FUND TRANSFER \$25.00		
10/26/16	COMMENT Notification from the Court of Appeals requesting case/file within 21-days.	amd	10/26/16
11/2/16	COMMENT File prepared and sent to the Court of Appeals electronically.	amd	11/2/16
7/18/17	OPINION AND ORDER (FROM APPELLATE COURT) REVERSED AND REMANDED	amd	7/18/17
8/10/17	CASELOAD REOPEN DEF 1 STATE OF MICHIGAN UNEMPLOYMENT INSURANCE AGENCY	amd	8/10/17
8/30/17	ORDER DEF 1	mmla	8/30/17
8/30/17	CLOSE CASE STATUS	mmla	8/30/17
9/14/17	NOTICE OF WITHDRAWING ATTORNEY RACHAEL E. KOHL PTF 1 PTF 2 PTF 3	mmla	9/14/17
9/19/17	PROPOSED ORDER WITHDRAWING ATTORNEY RACHAEL E. KOHL PTF 1 PTF 2 PTF 3	mmla	9/19/17
10/9/17	ORDER WITHDRAWING ATTORNEY RACHAEL E. KOHL	mmla	10/9/17
4/6/18	ORDER OF THE MICHIGAN SUPREME COURT	amd amd	4/9/18 4/9/18
12/5/19	OPINION AND ORDER (FROM APPELLATE COURT) AFFIRM WITH CONCURRENCE	amd	12/5/19

Amended Complaint



**Pitt McGehee
Palmer & Rivers**

Professional Corporation Attorneys & Counselors

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Royal Oak, Michigan 48067-3848

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October 19, 2015

VIA HAND DELIVERY

Clerk of the Court
Court of Claims
c/o Michigan Court of Appeals
Columbia Center
201 West Big Beaver Road, Suite 800
Troy, MI 48084-4127

RE: GRANT BAUSERMAN, KARL WILLIAMS, TEDDY BROE, Individually and on behalf
of class of similarly-situated persons v. STATE OF MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY
Case No. 15-202-MM

Dear Clerk:

Please file the enclosed First Amended Verified Class Action Complaint for Declaratory Relief, Injunctive Relief, Equitable Relief and Damages and Proof of Service regarding this matter.

Sincerely,

PITT MCGEHEE PALMER & RIVERS

Jennifer L. Lord

JLL/ktp

Enclosure

Cc (w/encl.):

Peter T. Kotula (via e-mail: kotulap@michigan.gov)



IN THE STATE OF MICHIGAN
COURT OF CLAIMS

GRANT BAUSERMAN, KARL WILLIAMS, TEDDY BROE
individually and on behalf of class of
similarly-situated persons,

Plaintiff,

Case No. 2015 000202-MM

v.

Hon. Cynthia D. Stephens

STATE OF MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY,

Defendant.

PITT, MCGEHEE, PALMER & RIVERS, P.C.
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**FIRST AMENDED VERIFIED CLASS ACTION COMPLAINT FOR DECLARATORY RELIEF,
INJUNCTIVE RELIEF, EQUITABLE RELIEF AND DAMAGES**

This class action is brought pursuant to the due process and fair and just treatment clause of Mich. Const. art. 1, § 17 against the State of Michigan Unemployment Insurance Agency (“UIA”).

INTRODUCTION

Unlawful Fraud Determination Practices. The State of Michigan Unemployment Insurance Agency utilizes an automated decision-making system to detect and adjudicate suspected instances of unemployment benefit fraud pursuant to the automated decision-making system known as the Michigan Integrated Data Automated System (“MiDAS”) which deprives UIA claimants of due process and fair and just treatment because it determines guilt without providing notice, without proving guilt and without affording claimants an opportunity to be heard before penalties are imposed.

Unlawful Collection Practices. The UIA engages in collection activities to recover alleged overpayments, interest and statutory penalties. These collection activities include but are not limited to seizure of state and federal income tax refunds, wage and bank garnishments, and offsets against UIA benefits otherwise due the claimant. The UIA, in carrying out these collection activities, has engaged in at least seven unlawful collection practices. These unlawful collection practices include but are not limited to: 1) UIA routinely imposes a higher level of penalties than permitted by the ACT, 2) UIA aggregates overpayments in order to impose a higher level of penalties upon claimants in violation of the ACT, 3) UIA collects interest on penalties in violation of the ACT, 4) UIA utilizes wage garnishments to collect penalties in violation of the ACT, 5) UIA pursues the recovery of overpayments beyond the time period allowed by the ACT, 6) UIA seizes tax refunds from joint taxpayers without proper allocation between the responsible and non-responsible

taxpayer, and 7) UIA routinely fails to repay to claimants or to repay on a timely basis funds which were seized by the UIA or paid over to UIA by the claimant to satisfy overpayments and penalty determinations which were reversed at a later time.

CLASS DEFINITION

This class action is brought by Plaintiffs Grant Bauserman, Karl Williams and Teddy Broe individually and on behalf of a class of similarly situated individuals who, since September 9, 2012 were:

A. Subjected to unlawful fraud determination practices where Class Members:

- (1) have applied for and received or will apply for and receive unemployment insurance benefits through the Michigan Unemployment Insurance Agency; and;
- (2) have been alleged, or will be alleged by the UIA to have sought to obtain unemployment benefits, either through fraud or failure to report earnings, and
- (3) have not:
 - (a) been provided specific notice of the allegations of fraud or failure to report; or
 - (b) been afforded a minimum of sixty days to present evidence; or
 - (c) had their evidence considered by the state once presented; or
 - (d) received an actual determination of a legally enforceable debt.
- (4) have been penalized or will be penalized through one or more of the following actual state-imposed deprivations:
 - (a) interception/seizure of state and/or federal income tax refunds;

- (b) forced repayment of benefits; and/or
- (c) wage, benefits or bank garnishments.

AND/OR

B. Subjected to unlawful collection practices where Class Members experienced one or more of the following :

- (1) UIA routinely imposes a higher level of penalties then permitted by the Act,
- (2) UIA aggregates overpayments in order to impose a higher level of penalties upon claimants in violation of the ACT,
- (3) UIA collects interest on penalties in violation of the ACT, and
- (4) UIA utilizes wage garnishments to collect penalties in violation of the ACT.
- (5) UIA improperly pursues the recovery of overpayments beyond the time period permitted by the ACT.
- (6) UIA, seizes tax refunds from joint taxpayers without proper allocation between the responsible and non-responsible taxpayer, and
- (7) UIA routinely fails to repay to claimants or to repay on a timely basis funds which were seized by the UIA or paid over to UIA by the claimant to satisfy overpayments and penalty determinations which were reversed at a later time.

AND

C. Each Class Member has been penalized or will be penalized through one or more of the following actual state-imposed deprivations:

- (a) interception/seizure of state and/or federal income tax refunds;

- (b) forced repayment of benefits; and/or
- (c) wage, benefits or bank garnishments.
- (d) improper allocation of restitution obligation where there has been a joint tax return filed, or
- (e) failed to repay to Class Member or to repay on a timely basis funds which were seized by the UIA or paid over to UIA by the Class Member to satisfy overpayments and penalty determinations which were reversed at a later time.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiffs Grant Bauserman, Karl Williams and Teddy Broe received unemployment insurance benefits through the Michigan Unemployment Insurance Agency after they became unemployed from a Michigan employer.
2. Defendant State of Michigan Unemployment Insurance Agency (“UIA”) is a state agency within the State of Michigan Department of Licensing and Regulatory affairs.
3. The Court of Claims has personal jurisdiction over the defendant because the defendant is an agency of the State of Michigan.
4. The Court of Claims has original jurisdiction over this matter pursuant to MCL § 600.6419, et seq. because the claim is brought against an agency of the State of Michigan.
5. Venue is proper in the Court of Claims pursuant to MCL § 600.6419, et seq.

CERTIFICATE OF COMPLIANCE WITH MCL § 600.6432(1)

6. Plaintiffs Bauserman, Williams and Broe certify that this complaint is signed and verified by Plaintiffs before an officer authorized to administer oaths pursuant to MCL §600.6432(1).

GENERAL ALLEGATIONS

A. The Federal Government provides grant money to support Michigan's Unemployment Insurance Program only if specific conditions are met.

7. The Michigan Unemployment Insurance Agency (UIA) operates Michigan's unemployment insurance program.

8. The United States government, through the Department of Labor, provides monetary grants to states, including Michigan, in support of state unemployment insurance programs.

9. In order to be certified for such grants, states must assess penalties of no less than 15 percent of the amount of erroneous payments, if the state "determines an erroneous payment...was made to an individual due to fraud committed by such individual." 42 USC § 503(a)(11)(A).

10. Assessments collected as a penalty for fraud must be deposited into the unemployment fund of the State. 42 USC § 503(a)(11)(B).

B. A key component of the federal grant program is a mandate that the states provide due process to unemployment claimants accused of fraud.

11. Federal law establishes minimum due process requirements on those states that receive grants to support unemployment insurance programs.

12. Thus, federal law allows states to recover overpayments by deducting them from future unemployment benefits, subject to the due process requirement that "[a]ny such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State." 42 U.S.C. § 503(g)(1).

13. In addition, federal law allows states to recover overpayments and penalties through the interception of federal income tax refunds, subject to minimum due process requirements.

14. Thus, states are barred from pursuing collection of unemployment compensation debts, including penalties, through collection actions and the interception of federal income tax refunds, unless specific steps are taken with regard to notice, consideration of evidence and a fair opportunity to be heard.

15. Specifically, 26 U.S.C. § 6402(f)(3), requires states to provide specific notice, affords claimants no less than sixty days to present evidence, and requires states to consider evidence from the claimant in determining whether the alleged fraud or other overpayment debt can be enforced:

- (3) Notice; consideration of evidence. No State may take action under this subsection until such State—
 - (A) notifies the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;
 - (B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or is not a covered unemployment compensation debt;
 - (C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and is a covered unemployment compensation debt; and
 - (D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid

and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

16. These minimum due process requirements apply to the following types of unemployment compensation debt: past-due debt for erroneous payments due to alleged fraud; past-due debt due to the claimant's alleged failure to report earnings; contributions to the state's unemployment fund for which the person is alleged to be liable; and any penalties and interest assessed on such alleged debt. 26 U.S.C. § 6402(f)(4).

17. These minimum due process requirements must be afforded to all claimants, regardless of whether or not the claimants are ultimately determined to be "guilty" or "innocent" of receiving or trying to obtain UIA benefits through fraud or other improper means.

18. Michigan accepts federal funds in furtherance of its unemployment benefits program, imposes penalties for unemployment fraud and is therefore obligated to comply with the minimum due process requirements mandated by federal law.

C. The UIA Statutory Adjudication Requirements.

19. The process for determining fraud, including the process for garnishing wages, intercepting tax refunds, and collecting restitution or penalties actions, are subject to the same adjudication standards as the adjudication process for the establishment of benefits under MCL 421.32a.

20. Thus, in order to comply with the requirements of the Michigan Unemployment Security Act, the UIA must notify the claimant that the UIA is investigating a fraud claim and must provide the factual basis supporting the investigation.

21. The claimant must be given a reasonable time to supply information whereupon the Agency will make a determination.

22. With the determination, the Agency must send out a notice of protest or appeal rights.

23. The claimant can supply new information or make additional arguments and submit same to the UIA within 30 days to secure a re-determination.

24. The UIA then issues a redetermination with notice of appeal right to an ALJ within 30 days who will then schedule a hearing.

25. With the ALJ ruling, the claimant receives notice of appeal rights.

26. MCL 421.32a applies to all adjudications, including fraud determinations under Sections 62(a) and 62(b) of the Act.

D. Michigan's Unemployment fraud detection, collection, and seizure practices fail to comply with minimum due process requirements.

27. The Michigan legislature has enacted legislation, purportedly in compliance with the requirements of state and federal law, to determine whether UIA claimants have committed benefit fraud and to impose penalties upon a determination that a claimant is guilty of fraud.

28. One provision of Michigan law provides for the recovery of penalties "if the unemployment agency determines that a person has intentionally made a false statement or misrepresentation or has concealed material information to obtain benefits[.]" MCL § 421.62(b).

29. The Michigan statute provides that penalties may be recovered through payments of cash, deduction from benefits, or deduction from state and/or federal income tax refunds. *Id.*

30. MCL § 421.62 begins by describing what will happen if the agency determines that a claimant has improperly received benefits.

31. On its face, MCL § 421.62 does not contain *any* of the minimum procedural due process requirements set forth in 26 U.S.C. § 6402.

32. In addition, if the UIA determines that a claimant has tried to obtain benefits through fraud, MCL § 421.54 authorizes the automatic imposition of significant penalties including repayment of benefits received, plus penalties of up to four times the amount received and/or criminal prosecution and imprisonment.

33. Similar to MCL § 421.62, MCL § 421.54 describes the sanctions and penalties to which claimants may be subjected, but does not contain any of the minimum procedural due process requirements set forth in 26 U.S.C. § 6402.

34. MCL § 421.32, which sets forth the procedures for claims, examinations, determinations and notice, does not contain any of the minimum procedural due process requirements set forth in 26 U.S.C. § 6402.

E. Michigan utilizes an automated decision-making system to detect possible cases of fraud and to determine that claimants are guilty of fraud. This automated decision-making system determines the outcome of fraud cases without meaningful notice, adjudication or an opportunity for claimants to be heard.

35. Michigan maintains an automated decision-making system known as MiDAS for the detection and control of alleged UIA benefit fraud. MCL 421.6g.

36. The UIA coordinates collection procedures with employers, other state agencies and the federal government and uses electronic “cross-checking” that alerts the UIA’s automated system when income is reported for UIA claimants, or when other activity

regarding the claimant occurs that might have some bearing on their qualification for benefits.

37. When such income is detected, or when other information or discrepancies regarding the claimant are “flagged,” MiDAS initiates an automated process that can result in disqualification from benefits, the imposition of penalties and criminal prosecution.

38. MiDAS does not provide claimants with specific notice of the basis for the UIA’s suspicion of fraud or other culpable conduct.

39. MiDAS does not include or allow for an actual examination of the claim and a determination on the facts by a representative designated by the UIA of whether the claimant engaged in culpable disqualifying conduct.

40. MiDAS does not allow for a minimum of sixty days in which claimants can present evidence.

41. MiDAS does not include or allow for the presentation of evidence by the claimant.

42. MiDAS does not include or allow for consideration of evidence by the Agency.

43. Instead of providing for meaningful notice, an opportunity to present evidence and a meaningful determination process for consideration of evidence, the UIA automatically sends questionnaires to UIA claimants asking them to respond, in ten days, and explain the circumstances surrounding the potential disqualification.

44. Such questionnaires are not sent to claimants in all cases involving questions of fraud or failure to report.

45. These questionnaires do not inform the claimant of the basis for the agency’s suspicion or grounds for potential disqualification, and are thus do not allow claimants the

opportunity to respond in a reasonable time and in a reasonable manner to the underlying accusation of fraud, failure to report or other alleged culpable conduct.

F. The notice to former claimants is designed so that, as a practical matter, the claimants never actually receive notice.

46. These questionnaires are sent to claimants' online Michigan Web Account Management system ("MiWAM") accounts without any additional notification via e-mail, U.S. mail or otherwise, to notify claimants that they have received an inquiry or questionnaire regarding their potential disqualification.

47. In some cases, such as the case of Plaintiff Grant Bauserman, these questionnaires are sent to claimants' MiWAM accounts well after their benefits have expired. Claimants therefore have no reason to check their MiWAM accounts for messages or other activity.

48. In such cases, the agency does not make any effort to notify claimants or former claimants that there is a questionnaire or correspondence in their MiWAM messages that might affect their property interests, liberty interests or other rights.

G. The automated decision-making process deprives claimants of an opportunity to present evidence and to have their evidence and objections fairly adjudicated or heard by real people.

49. After an automated finding is made that the claimant engaged in disqualifying conduct, such as fraud or failure to report, many claimants, including Plaintiff Grant Bauserman, Karl Williams, and Teddy Broe attempt to assert their procedural and administrative rights by writing to the Agency and/or submitting online appeals.

50. These appeals are ignored and claimants never receive any acknowledgment from the Agency that they were received, considered or rejected by the Agency.

51. Instead, the next step is for MiDAS to create a “statement,” which is sent to claimants, demanding that they repay benefits, plus penalties and interest.

52. This statement from UIA indicates that the consequences for non-payment may include interception of the claimants’ state income tax refund, interception of the claimants’ federal income tax refund, garnishment of wages, and legal collection activity through a court of law.

53. Under the threat of such consequences, some UIA claimants submit payments to the UIA to satisfy their “debts,” including repayment of benefits, penalties and interests, despite the fact that there has been no due process or an actual adjudication of culpable behavior to either disqualify them from benefits or impose penalties.

54. The methods and processes established by the UIA for the detection, determination and penalizing of alleged UIA benefit fraud violate the standards required by federal law.

55. The methods and processes established by UIA for the detection, determination and penalizing of alleged UIA benefit fraud violate the standards required by Article 1, Section 17 of the Michigan Constitution.

H. The United States Department of Labor has issued to the UIA a Directive to Independently Verify Information from Computer Cross Matching.

56. On May 19, 2015, H. Luke Shaefer, Associate Professor, University of Michigan and Steve Gray, General Manager of Michigan Unemployment Insurance Project, advised the United States Department of Labor (“USDOL”) that “[w]e are deeply concerned the [UIA] procedures, made possible by new IT systems, (1) subject significant numbers of innocent claimants to unjust fraud charges, (2) further deter claims by inundating

claimants with confusing multiple notice determination notices, and (3) exaggerate agency workloads in ways that increase federal administrative funding.

57. On October 1, 2015, in response to the concerns raised by Professor Shaefer and Mr. Gray, the USDOL issued a Directive to the UIA and other state unemployment agencies which stated in part that “[s]tate agency staff must independently verify the information through the normal required fact finding process and make the determination of eligibility base upon that verification, including any type of cross-match hit subject to [Computer Matching and Privacy Protection Act] or not. States may not make determinations of overpayments and/or fraud using automated systems without the input of agency staff.

I. House Bill 4982 has been introduced to correct some of the Unconstitutional Practices Alleged in the Lawsuit.

58. On October 13, 2015, House Bill 4982 was introduced by Rep. Roger Victory, R-Hudsonville, with broad bi-partisan support. The bill requires that cases flagged as potentially fraudulent must be reviewed by an UIA employee to verify that the claimant or employer willfully or intentionally committed a fraudulent violation. The bill explicitly prohibits determination of fraud based solely on a computer review.

J. UIA has engaged in the practice of over-assessing penalties against claimants and has engaged in improper collection activities in violation of the ACT.

59. MCL 421.54(b)(i) provides that the UIA may assess penalties for the first qualified overpayment of less than \$500.00 at the rate of two times the amount of the overpayment. “Qualified overpayment” means that the UIA has determined that the overpayment was the result of the claimant making a knowingly false statement or representation or of the claimant’s knowing or willful failure to disclose a material fact.

60. This section of the ACT also provides that for each subsequent qualified overpayment, the UIA may assess penalties of four times the overpayment amount.

61. The UIA has routinely over-assessed penalties for the first qualified overpayment of less than \$500.

62. MCL 421.54(b)(ii) provides that the UIA may assess penalties for an overpayment of \$500 or more at the rate of four times the amount of the overpayment.

63. The UIA routinely aggregates qualified overpayments of less than \$500.00 in order to assess penalties of four times the overpayment in violation of this section of the ACT.

64. MCL 421.15(a) provides that the UIA is prohibited from charging interest on penalties imposed on claimants.

65. The UIA routinely charges interest on balances which may include penalties in violation of Sections 62(b) and 15(m) of the ACT.

66. MCL 421.62(a) provides that once the UIA determines that a claimant has received benefits he or she is not entitled to, the UIA may recover the amount of the overpayment plus interest through various collection methods including wage garnishment.

67. Section 62(a) of the ACT does NOT authorize the use of wage garnishment to collect assessed penalties.

68. MCL 421.62(b) provides that if the UIA determines that the overpayment to the claimant was "qualified" (that is, based on fraudulent conduct), then the UIA is restricted in its collection methods in recovering penalties by deduction from future benefits and the interception of tax refunds.

69. Section 62(b) of the ACT does NOT permit the UIA to use wage garnishment to collect penalties.

70. In violation of Section 62(b) of the ACT, the UIA routinely subjects claimants to wage garnishment and the threat of inflated wage garnishment to impermissibly collect penalties where the UIA has determined that the overpayment was the result of the claimants' fraudulent conduct.

71. This violation occurs through the UIA's sustained practice of converting penalty amounts into restitution amounts on the UIA's form 1301. In form 1301, the UIA identifies the amount of principal (restitution) due (subject to the collection provisions of Section 62(a)) and the amount of penalty due (subject to the collection provisions of Section 62(b)). The two amounts are then totaled. Immediately following the UIA's calculation is the following language: "Claimant must pay to the Agency in cash, by check, money order, EFT via MiWAM or deduction from benefits, restitution in the amount of [TOTALLED AMOUNT] under MES Act, Section 62(a) as itemized above." It is this amount that becomes subject to interest charges under Section 15(a) and the ADDITIONAL restitution recoupment methods set forth in Section 15(m) of the ACT.

72. UIA seizes tax refunds from joint taxpayers without proper allocation between the responsible and non-responsible taxpayer in violation of "Allocation of Non-Obligated Spouse Form 743." Regulations from the Michigan Department of Treasury requires the UIA to send to the non-obligated spouse Form 743 for the state income tax refund offset and US IRS Regulations require the UIA to send to the non-obligated spouse Form 8379 for the federal tax refund offset.

73. UIA routinely fails to repay to claimants or to repay on a timely basis funds which were seized by the UIA or paid over to UIA by the claimant to satisfy overpayments and penalty determinations which were reversed at a later time.

74. The wholesale practice of routinely over-assessing penalties and utilizing impermissible collection methods as described above constitutes a policy of intentional and lawless activity in violation of the ACT and the due process and fair treatment provisions of the Michigan constitution.

ALLEGATIONS REGARDING GRANT BAUSERMAN

75. Plaintiff Grant Bauserman was formerly employed in Michigan.

76. Mr. Bauserman last worked for his Michigan employer in September 2013, at which time he became eligible for Michigan unemployment benefits due to involuntary separation.

77. Mr. Bauserman applied for unemployment benefits through the UIA and was approved for benefits.

78. Mr. Bauserman received UIA benefits from October 2013 through early March 2014, at which time his eligibility for unemployment benefits expired.

79. In late March 2014, after receiving the last of his unemployment benefits, Mr. Bauserman received a payment from his former employer representing deferred payment of his pro-rated 2013 bonus, which he earned during his employment from January 1, 2013 through September 30, 2013, the date of his separation from employment.

80. This pro-rated bonus payment did not reflect any earnings or income from gainful employment during the year 2014, nor did it reflect earnings or income from

employment with his former employer during the period in which Mr. Bauserman collected unemployment benefits.

81. In addition, because Mr. Bauserman did not receive this income during the period in which he received UIA benefits, he was not obligated to report it as income during that time.

82. On October 9, 2014, the UIA sent a request for information relative to ineligibility or disqualification to Mr. Bauserman's electronic MiWAM account.

83. This request for information was not sent to Mr. Bauserman's residential address.

84. Mr. Bauserman was not notified that a request for information had been sent to his MiWAM account.

85. Mr. Bauserman did not receive or see the message until late November 2014.

86. On or about December 1, 2014, Mr. Bauserman submitted a letter to the UIA stating as follows:

"In response to your letter...dated October 29, 2014, I had no earnings from my prior employer...for the January 2014-March 2014 period indicated in the letter. [My former employer] terminated my employment in September 2013, and I have not worked for them since. I began work with my current employer...on March 21, 2014. [My former employer] has made a mistake in indicating I had earnings from them after September of 2013."

87. UIA did not acknowledge receipt of this letter and did not respond to this letter.

88. On January 20, 2015, Mr. Bauserman sent another letter to UIA, via registered mail, stating:

“Please refer to my letter dated December 1, 2014. During the Thanksgiving holiday, I accessed the MiWAM site and found the letter referenced above. This was the first time accessing my account since approximately March 2014, when my benefits ended and I moved out of Michigan to start my new job. I then responded in a timely manner with the letter faxed on December 1, 2014. Attached please find a letter from [my former employer] stating that I had no wages during the period in question. The assertions in your letter are clearly erroneous. I have consulted my attorney and if this matter is pursued further I will take legal action against UIA. In accordance with the Freedom of Information Act, I request a copy of my file.”

89. UIA did not acknowledge or respond to this letter.

90. Along with his January 20, 2015 letter, Mr. Bauserman provided UIA with a letter from his former employer explaining that he had not worked for or received income from the prior employer during his UIA benefit period.

91. UIA did not acknowledge or respond to this letter.

92. UIA did not send Mr. Bauserman any correspondence or notification to inform him of any adjudication of culpable conduct, including fraud or failure to report.

93. On February 13, 2015, the UIA sent Mr. Bauserman a monthly statement showing missed payment of overpaid benefits, plus a penalty of \$15,928.00 and interest of \$40.59.

94. The February 13, 2015 statement from UIA indicates that collection actions may include interception of state income tax refund, interception of federal income tax refund, garnishment of wages, and legal collection activity through a court of law.

95. On March 17, 2015, Mr. Bauserman sent another letter to the UIA, via certified mail, stating:

“Regarding unemployment claim ... and your letter dated February 13, 2014, which threatens garnishment of wages and other collection methods (sent to prior Michigan address, received at new address in Kansas on or about February 26, 2014).

As stated in previous letters and faxes (attached) from me, and by my prior employer ... in Jackson Michigan, I was not an employee of [my former employer] and had no earnings from them in 2014. My employment with [my former employer] terminated on September 30, 2013, and my new employment began March 21, 2014.

I did receive a single payment from [my former employer] on March 31, 2014. That was a bonus for work performed from January 2013 through September 2013, before unemployment benefits began. Furthermore, the payment was received after my unemployment benefits ended. The UIA has mischaracterized the one-time payment as if I received equal amounts each week in January, February, and March of 2014 (see attached letter from UIA dated October 9, 2014).

UIA has not complied with my Freedom of Information Act request to provide me with a copy of my file. Furthermore, I request that UIA provide written notification

to me that this matter has been closed and UIA will not pursue collecting money from me.”

96. Along with this letter, which was sent to the UIA via certified mail, Mr. Bauserman enclosed and submitted all of the prior correspondence with UIA regarding his claim, and the pay stub for the bonus payment to show (1) that the bonus was paid as a lump sum; and (2) the payment was received after the exhaustion of unemployment benefits.

97. UIA did not acknowledge or respond to this letter.

98. On June 6, 2015, the United States Department of Treasury sent Mr. Bauserman a notice that his federal income tax refund had been seized by the State of Michigan to collect on his unemployment debt.

99. Shortly thereafter the State of Michigan sent Mr. Bauserman a notice that his state income tax refund had been seized to collect on his unemployment debt.

100. The State of Michigan UIA seized Mr. Bauserman’s property without notice of the specific grounds for the allegations against him, without providing 60 days in which to present evidence, without providing him an opportunity to present evidence, without considering Mr. Bauserman’s evidence, and without the notice and other due process required by federal law and the Michigan constitution.

101. The State of Michigan UIA seized Mr. Bauserman’s property without any adjudication that he actually engaged in the culpable activity, including fraud or failure to report, that would justify disqualification or penalties.

102. The UIA never established the existence of a valid debt obligation as to Mr. Bauserman.

103. Mr. Bauserman's claim accrued when there was an actual economic deprivation in the form of the interception of his federal and state income tax refunds.

104. On September 30, 2015, the UIA issued a new determination indicating without explanation that its earlier fraud determination was NULL and VOID.

105. As of the preparation of this First Amended Complaint, Mr. Bauserman has not received any refunds from the UIA for the tax refunds that the UIA now admits was improperly taken from Mr. Bauserman.

106. This Complaint is filed within 6 months of the accrual of Mr. Bauserman's claim and satisfies all timeliness requirements of MCL 600.6452.

ALLEGATIONS REGARDING PLAINTIFF KARL WILLIAMS

107. Plaintiff Karl Williams started working for Wingfoot Commercial Tire System in May 2011.

108. At the time his employment with Wingfoot started, Mr. Williams was receiving unemployment benefits through the UIA based on his unemployment from a previous employer.

109. Mr. Williams continued contacting the UIA through the MARVIN system after beginning his employment with Wingfoot.

110. Mr. Williams reported to MARVIN that he was receiving earnings from Wingfoot during this time.

111. UIA did not adjust Mr. Williams' benefits to reflect an offset for his wages from Wingfoot.

112. During this time, Mr. Williams had a reasonable and good faith belief that he was eligible for benefits under Section 48 of the Michigan Employment Security Act

because, as a manager in training with Wingfoot, his weekly pay was less than 1 ½ times his weekly UIA benefit rate.

113. On June 22, 2012, the UIA issued a redetermination holding Williams ineligible for benefits under Section 48 of the Act.

114. Also on June 22, 2012, in a determination of penalty and restitution, the UIA ordered Mr. Williams to pay restitution of \$9875.00 and penalties of \$39,500.0 under Sections 54(b), 62(a) and 62(b) of the Michigan Employment Security Act.

115. Also on June 22, 2012, in a second determination of penalty, the UIA found Mr. Williams liable for “Unpaid Fraud Weeks” and assessed an additional penalty of \$11,584.00. The UIA provided no facts to support this penalty.

116. Mr. Williams filed a late protest of these determinations.

117. On July 1, 2014, an Administrative Law Judge held that Mr. Williams could not establish good cause for his failure to timely protest the determinations of June 22, 2012.

118. Thus, Mr. Williams was subject to the imposition of restitution, interest and penalties arising out of his claim for benefits, including penalties for having intentionally misled the UIA.

119. On August 22, 2012, the UIA sent Mr. Williams a “Final Notice of Payment Due.” It stated an overpayment balance of \$21,459.00 and a penalty balance of \$39,500.00.

120. Clearly, the UIA impermissibly added the penalty amount from the June 22, 2012 Unpaid Fraud Weeks penalty determination to the overpayment amount from the June 22, 2012 penalty and restitution determination.

121. The August 22, 2012 Final Notice of Payment Due (and all such subsequent notices) contains an interest balance that, in part, assesses interest on a penalty amount in violation of Section 15(a).

122. On October 29, 2013, Mr. Williams received a Notice of Garnishment from the UIA for the amount of \$64,069.13 (Principal: \$21,459.00; Penalty: \$39,500.00; Interest: \$3,110.13). The notice informed Mr. Williams that his employer would be required to deduct and send up to 25% of his disposable earnings each pay period to the UIA Until the debt was paid in full.

123. Under Michigan law, Mr. Williams has no right to appeal or protest the administrative garnishment.

124. On February 19, 2015, Mr. Williams received notice that his federal income tax refund had been intercepted and seized by the UIA to satisfy the debt representing his restitution, interest and fraud penalties.

125. The UIA has violated the limitations on collections contained in the Michigan Employment Security Act and has deprived Mr. Williams of due process and fair and just treatment in violation of the Michigan Constitution, by: (a) assessing interest on penalties; and (b) utilizing administrative garnishments to collect penalties.

ALLEGATIONS REGARDING PLAINTIFF TEDDY BROE

126. From February 15, 2013 until April 15, 2013, Plaintiff Teddy Broe worked for Fifth Third Bank under a seasonal tax trust internship to assist with filings for the 2012 tax season.

127. On Friday, April 12, 2015, Mr. Broe's supervisor told him that he did not report for the last day of the paid internship, which would have been Monday, May 15, 2013.

128. As a result, Mr. Broe became unemployed and thus applied for UIA benefits.

129. In his initial filing, Mr. Broe identified his reason for unemployment as "seasonal discharge."

130. UIA approved Mr. Broe's claim for benefits.

131. Mr. Broe received benefits until he obtained new employment.

132. Mr. Broe received approximately \$2200 in unemployment benefits.

133. Mr. Broe did not receive any notification that Fifth Third Bank had disputed his eligibility for unemployment benefits, nor did he receive notice of any redetermination of his eligibility for benefits.

134. In November 2013 and afterwards, after Mr. Broe was re-employed and stopped seeking benefits, the UIA continued to send requests for information and other communications regarding ineligibility or disqualification.

135. These notices were sent to Mr. Broe's MiWAM account, which he no longer accessed because he was re-employed and was no longer claiming benefits.

136. In the summer of 2014, UIA a notice of redetermination indicating that he had committed fraud and that he would be liable for restitution, interest and penalties.

137. These notices were sent to Mr. Broe's MiWAM account, which he no longer accessed because he was re-employed and was no longer claiming benefits.

138. In 2015, Mr. Broe received a notice from UIA that he owed a debt of approximately \$8800 representing overpayment, interest and penalties for fraud.

139. Mr. Broe went to the unemployment insurance agency office, where he was directed to file a protest or appeal online through the UIA website.

140. Mr. Broe went to the UIA website and submitted appeals through the MIWAM system.

141. These appeals were eventually denied as having been submitted too late, despite the fact that Mr. Broe had no real notice of UIA's accusation of fraud.

142. In May 2015, UIA intercepted Mr. Broe's state income tax refund in the amount of \$221.

143. Also in May 2015, the UIA filed for at least \$525 with the Federal Treasury Offset Program.

144. The UIA also intercepted Mr. Broe's federal income tax refund in the amount of \$1100.

145. Mr. Broe submitted an appeal through the website on September 24, 2015, but his appeal was denied on October 6, 2015.

146. Mr. Broe appealed the denial on October 9, 2015.

CLASS ACTION DEFINITION AND ALLEGATIONS

147. This class action is brought by Plaintiffs Grant Bauserman, Karl Williams and Teddy Broe individually and on behalf of a class of similarly situated individuals who, since September 9, 2012 were:

A. Subjected to unlawful fraud determination practices where Class Members:

- (1) have applied for and received or will apply for and receive unemployment insurance benefits through the Michigan Unemployment Insurance Agency; and

- (2) have been alleged, or will be alleged by the UIA to have sought to obtain unemployment benefits, either through fraud or failure to report earnings, and
- (3) have not:
 - (a) been provided specific notice of the allegations of fraud or failure to report; or
 - (b) been afforded a minimum of sixty days to present evidence; or
 - (c) had their evidence considered by the state once presented; or
 - (d) received an actual determination of a legally enforceable debt.
- (4) have been penalized or will be penalized through one or more of the following actual state-imposed deprivations:
 - (a) interception/seizure of state and/or federal income tax refunds;
 - (b) forced repayment of benefits; and/or
 - (c) wage, benefits or bank garnishments.

AND/OR

B. Subjected to unlawful collection practices where Class Members experienced one or more of the following:

- (1) UIA routinely imposes a higher level of penalties than permitted by the ACT.
- (2) UIA aggregates overpayments in order to impose a higher level of penalties upon claimants in violation of the ACT.
- (3) UIA collects interest on penalties in violation of the ACT.
- (4) UIA utilizes wage garnishments to collect penalties in violation of the ACT.

(5) UIA improperly pursues the recovery of overpayments beyond the time period permitted by the ACT.

(6) UIA seizes tax refunds from joint taxpayers without proper allocation between the responsible and non-responsible taxpayer.

(7) UIA routinely fails to repay to claimants or to repay on a timely basis funds which were seized by the UIA or paid over to UIA by the claimant to satisfy overpayments and penalty determinations which were reversed at a later time.

AND

C. Each Class Member has been penalized or will be penalized through one or more of the following actual state-imposed deprivations:

(1) interception/seizure of state and/or federal income tax refunds;

(2) forced repayment of benefits; and/or

(3) wage, benefits or bank garnishments; and/or

(4) improper allocation of restitution obligation where there has been a joint tax return filed; and/or

(5) failed to repay to each Class Member or to repay on a timely basis funds which were seized by the UIA or paid over to UIA by the Class Member to satisfy overpayments and penalty determinations which were reversed at a later time.

148. The class is estimated to include hundreds if not thousands of individuals and is therefore so numerous that joinder of all members is impracticable.

149. The number of people who have suffered these common deprivations of due process rights is sufficiently numerous to make class action status the most practical

method for plaintiffs to challenge the policies, procedures and practices of Defendant that are the cause of their deprivation of property without due process.

150. There are questions of law or fact common to the members of the class such that common questions predominate over questions affecting only individual members. Individual questions of the claimants' "guilt" or "innocence," or questions of the UIA's knowledge, do not predominate over common questions because (a) the UIA is required to provide specific due process rights to all claimants, regardless of whether or not the claimants are ultimately determined to be "guilty" or "innocent" of receiving or trying to obtain UIA benefits through fraud or other improper means; (b) the UIA failed to provide claimants the required due process without knowing whether or not the claimants were "guilty" or "innocent, (c) the members of the class have been deprived of due process regardless of whether or not they are ultimately determined to be "guilty" or "innocent" of receiving or trying to obtain UIA benefits through fraud or other improper means and have thus suffered an injury in the form of a deprivation of due process; (d) an individualized determination of what the UIA knew or did not know about each claimant and the bases for their alleged fraud or overpayment is not required to determine whether the UIA violated the law by affording the claimants their due process rights; and (e) class members without regard to any individualized culpability issues are routinely over-assessed penalties, have interest imposed on penalties or are subjected to improper, unauthorized and overreaching UIA collection activities as described in this First Amended Complaint.

151. The central question of law common to all class members is whether defendant's interception and seizure of state and federal income tax refunds, garnishment of wages and/or demands for repayment, over-assessments of penalties, imposition of

interest on penalties and unauthorized collection methods are made without the due process, including fair and just treatment, as required by Article 1, Section 17 of the Michigan Constitution.

152. The questions of fact common to the Class, without limitation, include: (1) the use of cross-checking and other automated methods to detect discrepancies in the class members' benefits claims; (2) the automated decision-making process, including the automated generation of erroneous allegations of fraud or failure to report; (3) the disqualification of claimants without specific notice; (4) disqualification of claimants without allowing claimants at least 60 days to present evidence; (5) disqualification of claimants without consideration of the claimants' evidence, once presented; (6) the imposition of penalties, demands for repayment, interest, and/or garnishment against claimants; and (7) over-assessments of penalties, imposition of interest on penalties and unauthorized collection methods.

153. The claims of the class representatives, including the violations of law and resulting harms alleged, are typical of the claims, violations of law and resulting harms suffered by all class members.

154. The plaintiff class representatives will fairly and adequately assert and protect the interests of the class. Plaintiffs' counsel know of no conflicts of interest between the class representatives and absent class members with respect to the matters at issue in this litigation; the class representatives will vigorously prosecute the suit on behalf of the Class; and the class representatives are represented by experienced counsel. Plaintiffs are represented by attorneys with substantial experience and expertise in complex and class action litigation involving issues of civil rights, employment law and

employee benefits. Plaintiffs' attorneys have identified and investigated the claims in this action and have committed sufficient resources to represent the class.

155. The maintenance of the action as a class action will be superior to other available methods of adjudication in promoting the convenient administration of justice.

156. The prosecution of separate actions by individual members of the class could result in inconsistent or varying adjudications with respect to individual members of the class.

157. Defendants have acted or failed to act on grounds generally applicable to all class members.

158. The filing of this Complaint fulfills the notice requirements of MCL 600.6452 as to all class members because the actions of the UIA are similar as to all claimants who have experienced an actual deprivation, as described in the description of the plaintiff class, and the claims of the class representatives and all class members arise out of a common factual and legal nexus.

COUNT I

**VIOLATION OF THE MICHIGAN CONSTITUTION
ARTICLE I, SECTION 17**

159. Article I, Section 17 of the Michigan Constitution states, in relevant part:
No person shall be...deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

MCLS Const. Art. I, § 17

160. One essential requirement of due process is that claimants should be afforded the opportunity to be heard at a meaningful time and in a meaningful manner before being deprived of life, liberty or property.

161. The unlawful activities of the UIA, as described in this Complaint, constitute a course of conduct that is unauthorized by law, and therefore not a bona fide governmental function for purposes of governmental immunity. *Smith v. State of Michigan Dept. of Public Health*, 428 Mich. 540, 610 (1987).

162. Plaintiffs and the proposed Class Members have a property interest in unemployment benefits, tax refunds and wages that are garnished by the State without due process and fair and just treatment.

163. The State of Michigan's due process obligations to Plaintiffs and the Class Members include the obligation to follow the minimum due process standards required under federal law with respect to the collection of unemployment debts, including overpayments and penalties.

164. The State of Michigan Unemployment Insurance Agency has violated and is continually violating the rights of Plaintiff and the Class Members by improperly intercepting tax refunds, garnishing wages and forcing repayments from claimants:

- a. without providing the required notice of the bases asserted for disqualification;
- b. without providing at least 60 days for claimants to present evidence;
- c. without consideration of the factual basis or proof for or against the finding of culpable conduct;
- d. without a hearing;

- e. without providing claimants an opportunity to be heard at a meaningful time and in a meaningful manner; and
- f. By utilizing an automated decision-making system for the detection and determination of fraud cases, whereby the computer code in the automated decision-making process contains the rules that are used to determine a claimant's guilt, and those rules change the substantive standard for guilt or are otherwise inconsistent with the requirements of due process.
- g. By routinely and on a wholesale basis over-assessing penalties, charging interest on penalties and utilizing authorized collection methods to improperly collect penalties, the defendant has established a government policy which constitutes a violation of the due process and fair treatment provisions of the Michigan Constitution of 1963.

165. Although federal law requires at least 60 days' notice, an opportunity for a hearing, and an opportunity to present evidence, the UIA does not provide 60 days' notice, does not provide claimants with a hearing and an opportunity to present evidence before imposing penalties.

166. Furthermore, clearly established principles of due process require notice of the defenses or regular procedures available to claimants who have allegedly engaged in fraud so that the claimants can meaningfully challenge determinations against them.

167. To the extent that the UIA does furnish notices, such notices are deficient because they fail to inform the claimant that there has been an actual adjudication of fraud

or failure to report, fail to provide the claimant with an opportunity to be heard at a meaningful time and in a meaningful manner, fail to provide the claimant with a hearing, fail to apprise the claimants of their possible defenses and the procedures to assert those defenses.

168. Adequate pre-deprivation proceedings are not impracticable and are in fact required under state and federal law.

169. Post-deprivation remedies are insufficient to protect claimants' rights to due process because even a temporary deprivation of wages, unemployment benefits or tax refunds creates a substantial burden on claimants who rely upon such income to live and support themselves and their families.

170. Post-deprivation remedies are inadequate and fail to provide due process because the automated decision-making process occurs in secret and there is no available recordkeeping trail to determine what occurred in the decision-making process.

171. As a result of the violations of the Michigan Employment Security Act and the Michigan Constitution alleged above, Plaintiffs and the class of individuals they seeks to represent have suffered significant economic damages due to the loss of state and federal income tax refunds, in addition to economic and non-economic damages caused by Defendant's deprivations of property without due process and without fair and just treatment as required by Article I, Section 17 of the Michigan Constitution.

DESIGNATION OF INSTITUTION OF THE STATE INVOLVED IN CLAIM

Pursuant to MCL § 600.6431(1), Plaintiff designates the following institutions or agencies of the state "involved in connection" with this claim:

State of Michigan Unemployment Insurance Agency

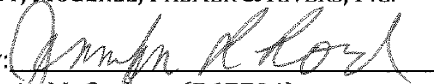
CONCLUSION AND RELIEF REQUESTED

Based on the violations of Article 1, Section 17 of the Michigan Constitution set forth in this Complaint, Plaintiff seeks the following relief for himself and for a class of similarly-situated individuals:

- A. An order declaring that Defendant’s practice of automated decision-making, including the intercepting and seizing state and federal income tax refunds, collection of unemployment debts, and garnishment of wages, without due process and without fair and just treatment, violates Section 32(a) of the Act and Article 1, Section 17 of the Michigan Constitution.
- B. An order declaring that Defendant’s practice of routinely misleading and misinforming claimants on a wholesale basis through over-assessing penalties, imposing interest on penalties and engaging in or threatening to engage in unauthorized and improper collection methods, violates Article 1, Section 17 of the Michigan Constitution.
- C. An order awarding economic damages to Plaintiffs and all Class Members in the amount equal to the income tax refunds that have been intercepted and seized, the amount of wages that have been garnished, and/or the amount of overpaid benefits that have been paid to satisfy unemployment “debts,” without due process and without fair and just treatment in violation of Article 1, Section 17 of the Michigan Constitution.
- D. An order awarding economic damages to Plaintiffs and all Class Members in the amount equal to the over-assessment of penalties, imposition of interest on penalties and to recover amounts resulting from the unauthorized and improper collection methods, violates Article 1, Section 17 of the Michigan Constitution.
- E. An order permanently enjoining Defendant from continuing its practices of intercepting and seizing state and federal income tax refunds, garnishing wages and collecting unemployment debts, over-assessing penalties, imposing interest on penalties and unauthorized and improper collection methods without due process and without fair and just treatment in accordance with Article 1, Section 17 of the Michigan Constitution.
- F. Any additional relief that the Court deems equitable under the circumstances.

Respectfully submitted,

PITT, MCGEHEE, PALMER & RIVERS, P.C.

By: 

Kevin M. Carlson (P67704)

Jennifer L. Lord (P46912)

Michael L. Pitt (P24429)

Melissa Brown (P79127)

Attorneys for Plaintiff

117 West Fourth Street, Suite 200

Royal Oak, MI 48067

Tel. 248-398-9800

Fax 248-398-9804

kcarlson@pittlawpc.com

jlord@pittlawpc.com

mpitt@pittlawpc.com

Neal A. Young (P44052)

Co-Counsel for Plaintiffs

1136 Cadillac Drive SE

Grand Rapids, MI 49506

616-856-7579

Uiguy1994@aol.com

Date: October 19, 2015

SIGNATURE AND VERIFICATION OF COMPLAINT BY PLAINTIFF

Pursuant to MCL § 600.6431(1), Plaintiff hereby signs and verifies this complaint before an officer authorized to administer oaths:

Signed: [Signature]
Grant Bauserman

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of: Ka

County of: Sedgewick

The foregoing instrument was acknowledged before me this 31st day of Aug, 2015 by Grant Bauserman.

Signature of Notary Public: [Signature]
Title or Rank: Notary Public

Serial Number, if any: _____

My Appointment Expires: 3-19-16



Respectfully submitted,

PITT, MCGHEE, PALMER & RIVERS, P.C.

By: [Signature]
Kevin M. Carlson (P67704)
Jennifer L. Lord (P46912)
Michael L. Pitt (P24429)
Attorneys for Plaintiff
117 West Fourth Street, Suite 200
Royal Oak, MI 48067
Tel. 248-398-9800
Fax 248-398-9804
kcarlson@pittlawpc.com
jlord@pittlawpc.com
mpitt@pittlawpc.com

Date: August 26, 2015

SIGNATURE AND VERIFICATION OF COMPLAINT BY PLAINTIFF

Pursuant to MCL § 600.6431(1), Plaintiff hereby signs and verifies this First Amended Class Action Complaint before an officer authorized to administer oaths:

Signed: 
KARL WILLIAMS

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of: Michigan

County of: Eaton

The foregoing instrument was acknowledged before me this 19th day of October, 2015 by Karl Williams.

Signature of Notary Public: 

Title or Rank: Notary Public

Serial Number, if any: _____

My Appointment Expires: August 4, 2018

SIGNATURE AND VERIFICATION OF COMPLAINT BY PLAINTIFF

Pursuant to MCL § 600.6431(1), Plaintiff hereby signs and verifies this First Amended Class Action Complaint before an officer authorized to administer oaths:

Signed: *Teddy Broe*
TEDDY BROE

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of: Michigan
County of: Ottawa

The foregoing instrument was acknowledged before me this 19th day of October by Teddy Broe.

Signature of Notary Public: *Peary Savage*
Title or Rank: Notary
Serial Number, if any: _____
My Appointment Expires: 7-13-19

IN THE STATE OF MICHIGAN
COURT OF CLAIMS

GRANT BAUSERMAN, KARL WILLIAMS, TEDDY BROE
individually and on behalf of class of
similarly-situated persons,

Plaintiff,

Case No. 2015 000202-MM

v.

Hon. Cynthia D. Stephens

STATE OF MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY,

Defendant.

PITT, MCGEHEE, PALMER & RIVERS, P.C.
Kevin M. Carlson (P67704)
Jennifer L. Lord (P46912)
Michael L. Pitt (P24429)
Melissa Brown (P79127)
Attorneys for Plaintiff
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kcarlson@pittlawpc.com
jlord@pittlawpc.com
mpitt@pittlawpc.com
mbrown@pittlawpc.com

Peter T. Kotula (P41629)
Kimberly K. Pendrick (P60348)
Shannon W. Husband (P60352)
Michigan Department of Attorney General
Labor Division
3030 W. Grand Blvd., Suite 9-600
Detroit, MI 48202
313-456-2200

Neal A. Young (P44052)
Co-Counsel for Plaintiffs
1136 Cadillac Drive SE
Grand Rapids, MI 49506
616-856-7579
Uiguy1994@aol.com

CERTIFICATE OF SERVICE

The undersigned certifies that the First Amended Verified Class Action Complaint
for Declaratory Relief, Injunctive Relief, Equitable Relief and Damages with this Certificate

Amended Complaint

of Service were served on the Court by e-mail and first class mail on October 5, 2015 to Peter T. Kotula (kotulap@michigan.gov), 3030 W. Grand Boulevard, Suite 9-600, Detroit, MI 48202.

Signature: 
Kathy Prochaska

RECEIVED by MSC 2/10/2021 3:37:17 PM

New Claimant batch 17-Oct-2013 1 of 1

IDENTIFICATION **DE/ID/ID/VIC** ADDITIONAL INFO EMPLOYERS PAYMENT **MIWAM** BENEFIT RIGHTS NON-MIWAM/AGES

MIWAM ACCOUNT

The Michigan Web Account Manager (MiWAM) is the UIA's system for managing your unemployment claim. MiWAM is accessible 24 hours a day, seven days a week and allows you to complete many online services. You can file a claim, submit an inquiry or name change request, change your address, answer fact finding questions, certify for benefits, review your payment history, and submit your work search using your MiWAM account. Your account is secure, accurate, and a fast way to interact with UIA.

Provide login information		Clear MiWAM Info	<p>Username/Password Rules</p> <ul style="list-style-type: none"> • Username must be between 7 and 30 characters long • Previous passwords cannot be reused • Password must be between 6 and 15 characters long • Password cannot begin with an exclamation point (!) or a question mark (?) • Password must not contain spaces • Password must contain both letters and numbers • Passwords are case sensitive
Username	*****		
Password	*****		
Password again	*****		
Secret Question	***		
Answer	*****		
Answer again	*****		

Choose your preferred method of communication **EMAIL** **TEXT**

Email Address BAUSERMAN47@COMCAST.NET

Sep. 30. 2015 9:05AM

No. 7695 P. 4

RECEIVED by MSC 2/10/2021 3:37:17 PM

IDENTIFICATION DEMOGRAPHICS ADDITIONAL INFO EMPLOYERS PAYMENT MIWAM BENEFIT RIGHTS NOT IN FULL WAGE

DEMOGRAPHIC INFORMATION

When entering your demographic information, please review your information and make sure it is correct. Important information about your benefit eligibility will be mailed to the address you provide. Review your phone number. It is important that the Unemployment Insurance Agency be able to contact you. If the agency is unable to contact you, it will affect your eligibility for benefits.

Physical Address

Country USA This address has been validated.
Address Line 1
Address Line 2
Unit Type Unit City
State / Province MICHIGAN ZIP County
Attention

Is your Mailing Address different than your physical address? Yes No

Letters sent to you will be addressed to:

GRANT BAUSERMAN

Telephone

Country Area Code Phone Number
USA

Email Address BAUSERMAN47@COMCAST.NET

Date of Birth

If you require an interpreter, choose the language

Gender Male Female

Hispanic / Latino Yes No

Racial Group White

Education Level 5 - Graduate or Professional Deg

Are you a U.S. Citizen? Yes No

Are you claiming dependents? Yes No

Number of Dependents you are Claiming 5 or more Dependents

Do you want State and Federal Taxes withheld? Yes No

Documents re: Plaintiff Bauserman's claim for benefits

Sep. 30. 2015 9:06AM

No. 1093 P. 0


New Claimant batch 17-Oct-2013 1 of 1


IDENTIFICATION **IDENTIFICATION** IDENTIFICATION ADDITIONAL INFO EMPLOYERS PAYMENT MIAMI BENEFIT RIGHTS NONMILITARIES


IDENTIFICATION INFORMATION

Yellow boxes indicate information is required. A green box indicates optional information. Federal and state laws require that certain types of information be provided upon request for statistical and Unemployment Insurance program purposes. The information you provide to the Unemployment Insurance Agency concerning your claim for unemployment benefits is confidential and will be used only by public officials performing their duties.

Claim Filing Effective Date 17-Oct-2013 14:54:45

Social Security Number 

Social Security Number. Enter numbers only. Do not use hyphens or dashes. 


Confirm Social Security Number. Enter numbers only. Do not use hyphens or dashes. 

Have you worked under more than one Social Security Number? Yes No


Name Information

Last Name
BAUSERMAN

First Name Middle Name Suffix
GRANT

Additional Last Name 

Driver License / State ID

Driver's license or state identification number 

Issuing state of your driver's license or state ID MICHIGAN

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New Claimant batch 17-Oct-2013 1 of 1

IDENTIFICATION **US BIOGRAPHICS** **ADDITIONAL INFO** **EMPLOYERS** **PAYMENT** **MARVIN** **BENEFIT RIGHTS** **NOTICE/WAGES**

BENEFIT RIGHTS

Before you complete filing a claim for unemployment benefits, it is important that you understand that you have rights and responsibilities regarding collecting unemployment benefits.

You will be receiving a Monetary Determination delivered to your MARVIN account. Read it carefully. It provides you with information you need to know.

- If you meet the monetary requirements to establish a claim
- Your Weekly Benefit Amount (WBA), number of weeks allowed, and the calculations involved
- If you are required to register for work in order to collect benefits
- How to protest your Monetary Determination if you do not agree
- If you need to provide additional information

You are also responsible for reading the booklet *Unemployment Benefits in Michigan*. You opted to access and read this booklet online. Along with other important information, this booklet explains to you, in detail, all the requirements regarding:

- Certifying for benefits
- Seeking work
- Registering for work
- Reporting earnings during certification
- Being able and available for work and other eligibility issues

The information in the *Unemployment Benefits in Michigan* booklet is helpful in collecting the benefits to which you are entitled. Problems arise while claiming benefits because individuals do not know and understand their rights and responsibilities. This can cause overpayments, non-payment, restitution, and sometimes fraud penalties.

If you opted to receive the booklet in the mail and do not receive it within 7 days of completing this application, call 1-866-500-0017. Customer Service Representatives are available to assist you between 8:00 a.m. and 4:30 p.m., Monday through Friday. The booklet is also available at http://www.michigan.gov/documents/uia_UC1201_76146_7.pdf

Protect your rights. Read and follow the instructions in any pamphlets, documents, or correspondence sent to you by the Unemployment Insurance Agency.

- At times you may be asked to provide a document or complete a form and return it within 10 days. Failure to provide the requested information could affect your rights to benefits.
- Remember to put your Social Security Number or Letter ID and your name on all information or documents that you send to the UIA. Print clearly and use black ink.

If you reside in another state or are moving out of Michigan within the next three weeks, you must register for work with the state employment service provider in your new state of residence. You must register for work timely or you may not receive unemployment benefits.

To claim benefits, you must certify with MARVIN by phone or online every two weeks to claim your unemployment benefits for the previous two weeks. Your first appointment day and time is: Monday, 10/28/2013 from 8:00 AM to 9:00 AM.

By clicking "Proceed" you are acknowledging that you have read and understand the information provided on this page. If you do not understand the information, call 1-866-500-0017. Customer Service Representatives are available to assist you between 8:00 a.m. and 4:30 p.m., Monday through Friday. You can also visit one of our Problem Resolution Offices. [Click here for a list of locations.](#)

Read and understood Rights

Documents re: Plaintiff Bauserman's claim for benefits

02p. 00. 2013 9:00AM

NO. 1092 P. 9

Separation Reason Fired

You have chosen **Fired**. This means you were let go or discharged by your employer for violation of company policy, attendance, poor job performance, or other reasons. If this is not the reason for your separation, return to the list to select another reason.

Last day worked for EATON AEROQUIP LLC 30-Sep-2013

What were the circumstances of your separation from this employer? Other Circumstances

Based on your response, additional information is necessary regarding:

Other Circumstances

You have the option to answer these questions now or the questions will be available to you later, online, through your MiWAM account or by mail.

Failure to answer the questions now may result in a delay or loss of some or all of your benefits. Do you want to answer the questions now?

Yes No

Who fired you? Give name and title. CLARK SIMPSON
DIRECTOR OF OPERATIONS

On what date did the incident occur which caused you to be fired?

What was the reason you were given for being fired? At Will Employment

Were other employees fired for this incident? Yes No

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Documents re: Plaintiff Bauserman's claim for benefits

Sep. 30. 2015 9:07AM

No. 7695 P. 19

Do you expect to receive any payments from EATON AEROQUIP LLC after 10/13/2013? Yes No

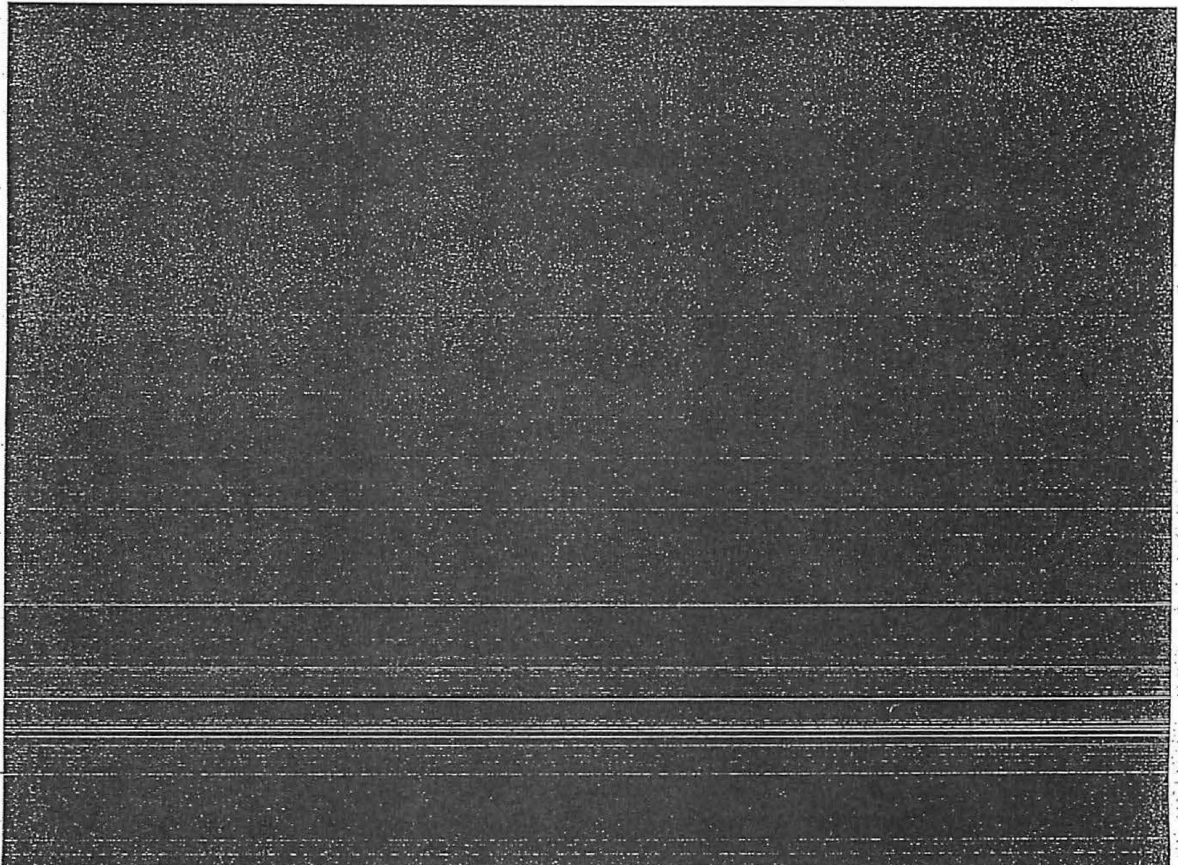
Are you receiving retirement benefits from EATON AEROQUIP LLC? Yes No

Did you last work for EATON AEROQUIP LLC in the state of Michigan? Yes No

In what county did you last work for EATON AEROQUIP LLC? JACKSON

Have you had any other lay offs or separations from EATON AEROQUIP LLC since 04/01/2012? Yes No

Are you required to seek work exclusively through a Union Hiring Hall? Yes No



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Agency determination on Plaintiff Bauserman's eligibility

UIA 1302
(Rev. 11-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



GRANT BAUSERMAN
[Redacted]

Mail Date: December 3, 2014
Letter ID: L0015109753
CLM: C3460229-0
Name: GRANT BAUSERMAN

Notice of Redetermination

Case Number: 0-003-036-570 BYB: October 13, 2013
SSN: ###-##-### Employer Number: 1584533-000
Claimant: GRANT BAUSERMAN Involved Employer: EATON AEROQUIP LLC

Issues and Sections of Michigan Employment Security Act Involved: Remuneration and 27(c) & 48.

You received earned income for the week(s) and amount(s) shown.

Your earnings are greater than or equal to 1.6 times your WBA of \$362.00.

You are ineligible for benefits under MES Act, Secs. 27(c) and 48. You will not receive benefit payments during this period.

Calculation of interest and penalty amount is shown later on this form.

If you disagree with this redetermination, refer to Appeal Rights" on the reverse side of this form.

Benefit Week Paid	Earnings Paid
04-Jan-2014	\$2,843.31
11-Jan-2014	\$2,843.31
18-Jan-2014	\$2,843.31
25-Jan-2014	\$2,843.31
01-Feb-2014	\$2,843.31
08-Feb-2014	\$2,843.31
15-Feb-2014	\$2,843.31
22-Feb-2014	\$2,843.31
01-Mar-2014	\$2,843.31
08-Mar-2014	\$2,843.31
15-Mar-2014	\$2,843.30



LARA is an Equal Opportunity Employer/Program.

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Agency determination on Plaintiff Bauserman's eligibility

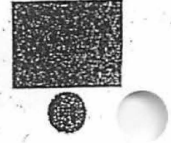
UJA 1302
(Rev. 11-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/ula



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



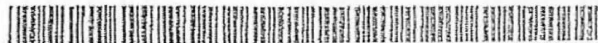
Mail Date: December 3, 2014
Letter ID: L0015109753
CLM: C3460229-0
Name: GRANT BAUSERMAN

|||
GRANT BAUSERMAN



Benefit Week Paid	Earnings Paid
22-Mar-2014	\$2,843.30
29-Mar-2014	\$2,843.30
	<u>\$36,963.00</u>

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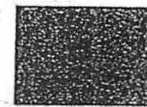


LARA is an Equal Opportunity Employer/Program.

Agency determination on Plaintiff Bauserman's eligibility

UIA 1302
(Rev. 11-14)

Letter ID: L0015109753



Appeal Rights

Any appeal must be filed by mail, fax or web account and received within 30 calendar days from the date this notice was issued on the front side of form. If the 30th day is a Saturday, Sunday, legal holiday, or Agency non-work day, the appeal must be received by the Unemployment Insurance Agency (UIA) by the end of the next day which is neither a Saturday, Sunday, legal holiday, nor Agency non-work day. If a appeal is not received within 30 days, a decision will become final and restitution may be due and owing.

If you disagree with a redetermination and want to appeal, request a hearing before an Administrative Law Judge:

- You may mail, fax, or submit an online response to the following: UIA, PO Box 124, Grand Rapids, MI 49501-0124, fax to: 1-616-356-0739, or through your web account at www.michigan.gov/uia.
- All written appeals must be signed or verified. However, the Agency may accept an appeal that lacks a signature if the appeal can be verified. The Agency will notify you.

IMPORTANT ADVOCACY INFORMATION: After you appeal your redetermination to the Administrative Law Judge, an Advocate may be able to assist you at the hearing. This service is free to claimants and employers. If you are interested in using an Advocate, once you have received your Notice of Hearing, call the Advocacy Program at 1-800-638-3994 and press Option 2. Provide the Advocate Representative with the Appeal Number from your Notice of Hearing form. Some restrictions in service may apply.

TO THE CLAIMANT: If you appeal, protect your rights by continuing to certify for benefits. Report using MARVIN, either by telephone or via the Internet at www.michigan.gov/uia, and click on either heading, "UIA Online Services for Claimants", or "Certify With MARVIN Online" pending the decision on your appeal. If you go back to work, report this fact when you certify.

In accordance with the provisions of the Michigan Employment Security Act, benefits (re)determined payable in accordance with this (re)determination will be paid, even though a protest may be filed at a later date. However, if a later redetermination or decision holds that you were not entitled to receive all or part of these benefits, you will be required to repay the benefits improperly received.

If you have any questions, call the UIA at 1-866-500-0017 (TTY callers use 1-866-366-0004).

METHOD OF SATISFYING 13-WEEK AND 26-WEEK REQUALIFICATION: Disqualifications imposed for a 13-week or 26-week requalification period will be terminated when you complete the required period. You will be credited with a week of requalification for each week in which you:

1. Certify as directed and meet the same requirements that apply to claiming a benefit payment, or
2. Earn at least 1/13th of the minimum high quarter earnings required to establish a benefit year, rounded down to a full dollar amount. For a benefit year beginning 1/4/2009 and after, the amount is \$220.00.

To re-qualify by certifying, you must report using MARVIN, either by telephone OR via the Internet at www.michigan.gov/uia, and click on either heading "UIA Online Services for Claimants" or "Certify With MARVIN Online."

METHOD OF SATISFYING A REWORK REQUIREMENT: A disqualification imposed for a voluntary quit can be terminated after you have worked and earned an amount equal to, or greater than, 12 times your weekly benefit amount. A disqualification imposed for a suspension or discharge for misconduct can be terminated after you have worked and earned an amount equal to, or greater than, 17 times your weekly benefit amount. The earnings must be with an employer liable under the Michigan Employment Security Act or the unemployment compensation law of another state.

ELIGIBILITY FOR BENEFITS AFTER COMPLETION OF REQUALIFICATION OR REWORK: After the requalification or rework requirements are completed, the claimant may be eligible for benefits. If wages earned with the employer involved in the (re)determination fall within the base period of the claim, benefits may be paid to the claimant on the basis of such wages. However, if the requalification requirements are imposed due to a separation under Section 29(1)(h),(i),(j),(k), or (m) of the MES Act, the claimant is not entitled to benefits based on wages earned with the involved employer before the week of disqualification.

INTEREST: Interest accrues at the rate of 1% per month (computed on a daily basis), Section 15(a) of the MES Act.

Agency determination on Plaintiff Bauserman's eligibility

UIA 1302
(Rev. 11-14)

Letter ID: L0015109753



PENALTIES: If it is determined that you intentionally made a false statement, misrepresented the facts or concealed material information to obtain benefits, then the penalty provisions of Sections 54 and 62(b) of the Michigan Employment Security Act will be applied and you will be subject to any or all of the following: You would have to repay money received and pay a penalty of two times (if less than \$500 of improper payments) or four times (if \$500 or more of improper payments) the amount of benefits fraudulently received. The two times penalty would be increased to a penalty of 4 times the amount of improper payments if it were a second or subsequent offense. Your benefits will be stopped and you will lose remaining benefits. You will be required to pay court costs (if prosecuted) and fines, face jail time, or you may be required to perform community service, or all of these. Intentional misrepresentation to obtain benefits in excess of \$3,500 is a felony and you may be prosecuted in criminal court.

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Agency determination on Plaintiff Bauserman's eligibility

UIA 1302
(Rev. 11-14)

Letter ID: L0015109753



Arabic

"هناك / يحتوي هذا المستند (المستندات) على معلومات مهمة عن حقوقك الخاصة بتجديد البطالة ومديروها و/أو مخصصاتك، وذلك فنن العزم
جداً أن تفهم البيانات الواردة في هذا المستند.
على الفور: إذا كنت بحاجة إلى مساعدة اتصل بالرقم 1-866-500-0017 للحصول على مساعدة في ترجمة وفهم المعلومات الواردة في المستند
(المستندات) التي تلقيها."

Spanish

¡IMPORTANTE! Este documento(s) contiene Información Importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la Información contenida en este documento.

INMEDIATAMENTE: Si necesita asistencia para traducir y entender la Información contenida en el documento(s) que recibió, llame al 1-866-500-0017.

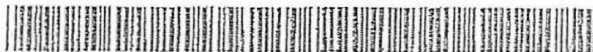
Mandarin

重要提示!

这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。
立即：如果需要，请拨打1-866-500-0017，可获得帮助，以帮助您翻译和理解所收到的文件中的信息。

Albanian

1. "E RËNDËSISHME! Ky dokument (dokumente) përmban informacion të rëndësishme mbi të drejtat, përgjegjësitë dhe/ose përfillimet tuaja nga kompensimi i papunësisë. Është shumë e rëndësishme që ta kuptoni informacionin në këtë dokument.
2. **MENJËHERË:** Nëse është e nevojshme, telefononi në numrin 1-866-500-0017 për t'ju ndihmuar me përkthimin dhe kuptimin e informacionit të dokumentit (dokumenteve) që keni marrë."



LARA is an Equal Opportunity Employer/Program.

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UIA 1302
(Rev. 11-14)

Letter ID: L0015109751



Appeal Rights

Any appeal must be filed by mail, fax or web account and received within 30 calendar days from the date this notice was issued on the front side of form. If the 30th day is a Saturday, Sunday, legal holiday, or Agency non-work day, the appeal must be received by the Unemployment Insurance Agency (UIA) by the end of the next day which is neither a Saturday, Sunday, legal holiday, nor Agency non-work day. If a appeal is not received within 30 days, a decision will become final and restitution may be due and owing.

If you disagree with a redetermination and want to appeal, request a hearing before an Administrative Law Judge:

- You may mail, fax, or submit an online response to the following: UIA, PO Box 124, Grand Rapids, MI 49501-0124, fax to: 1-616-356-0739, or through your web account at www.michigan.gov/uia.
- All written appeals must be signed or verified. However, the Agency may accept an appeal that lacks a signature if the appeal can be verified. The Agency will notify you.

IMPORTANT ADVOCACY INFORMATION: After you appeal your redetermination to the Administrative Law Judge, an Advocate may be able to assist you at the hearing. This service is free to claimants and employers. If you are interested in using an Advocate, once you have received your Notice of Hearing, call the Advocacy Program at 1-800-638-3994 and press Option 2. Provide the Advocate Representative with the Appeal Number from your Notice of Hearing form. Some restrictions in service may apply.

TO THE CLAIMANT: If you appeal, protect your rights by continuing to certify for benefits. Report using MARVIN, either by telephone or via the Internet at www.michigan.gov/uia, and click on either heading, "UIA Online Services for Claimants", or "Certify With MARVIN Online" pending the decision on your appeal. If you go back to work, report this fact when you certify.

In accordance with the provisions of the Michigan Employment Security Act, benefits (re)determined payable in accordance with this (re)determination will be paid, even though a protest may be filed at a later date. However, if a later redetermination or decision holds that you were not entitled to receive all or part of these benefits, you will be required to repay the benefits improperly received.

If you have any questions, call the UIA at 1-866-500-0017 (TTY callers use 1-866-366-0004).

METHOD OF SATISFYING 13-WEEK AND 26-WEEK REQUALIFICATION: Disqualifications imposed for a 13-week or 26-week requalification period will be terminated when you complete the required period. You will be credited with a week of requalification for each week in which you:

1. Certify as directed and meet the same requirements that apply to claiming a benefit payment, or
2. Earn at least 1/13th of the minimum high quarter earnings required to establish a benefit year, rounded down to a full dollar amount. For a benefit year beginning 1/4/2009 and after, the amount is \$220.00.

To re-qualify by certifying, you must report using MARVIN, either by telephone OR via the Internet at www.michigan.gov/uia, and click on either heading "UIA Online Services for Claimants" or "Certify With MARVIN Online."

METHOD OF SATISFYING A REWORK REQUIREMENT: A disqualification imposed for a voluntary quit can be terminated after you have worked and earned an amount equal to, or greater than, 12 times your weekly benefit amount. A disqualification imposed for a suspension or discharge for misconduct can be terminated after you have worked and earned an amount equal to, or greater than, 17 times your weekly benefit amount. The earnings must be with an employer liable under the Michigan Employment Security Act or the unemployment compensation law of another state.

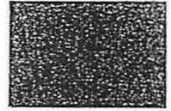
ELIGIBILITY FOR BENEFITS AFTER COMPLETION OF REQUALIFICATION OR REWORK: After the requalification or rework requirements are completed, the claimant may be eligible for benefits. If wages earned with the employer involved in the (re)determination fall within the base period of the claim, benefits may be paid to the claimant on the basis of such wages. However, if the requalification requirements are imposed due to a separation under Section 29(1)(h),(i),(j),(k), or (m) of the MES Act, the claimant is not entitled to benefits based on wages earned with the involved employer before the week of disqualification.

INTEREST: Interest accrues at the rate of 1% per month (computed on a daily basis), Section 15(a) of the MES Act.

Agency initial fraud determination for Plaintiff Bauserman

UIA 1302
(Rev. 11-14)

Letter ID: L0015109751



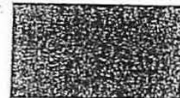
PENALTIES: If it is determined that you intentionally made a false statement, misrepresented the facts or concealed material information to obtain benefits, then the penalty provisions of Sections 64 and 62(b) of the Michigan Employment Security Act will be applied and you will be subject to any or all of the following: You would have to repay money received and pay a penalty of two times (if less than \$500 of improper payments) or four times (if \$500 or more of improper payments) the amount of benefits fraudulently received. The two times penalty would be increased to a penalty of 4 times the amount of improper payments if it were a second or subsequent offense. Your benefits will be stopped and you will lose remaining benefits. You will be required to pay court costs (if prosecuted) and fines, face jail time, or you may be required to perform community service, or all of these. Intentional misrepresentation to obtain benefits in excess of \$3,500 is a felony and you may be prosecuted in criminal court.

RECEIVED by MSC 2/10/2021 3:37:17 PM

Agency initial fraud determination for Plaintiff Bauserman

UIA 1302
(Rev. 11-14)

Letter ID: L0015109751



Arabic

" قام / يحتوي هذا المستند (المستندات) على معلومات هامة عن حقوقك الخاصة بتحديدات البطالة، ومعدل رواتبك و/أو مخصصاتك، وأنتك بمن المهم جدًا أن تقوم بالياتك الواردة في هذا المستند.
على الفور، إذا كنت بحاجة إلى مساعدة اتصل بالرقم 1-866-500-0017 للحصول على مساعدة في ترجمة واعيم المطومات الواردة في المستند (المستندات) التي تلتها "

Spanish

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Albanian

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2. MENJËHERË: Nëse është e nevojshme, telefononi në numrin 1-866-500-0017 për t'ju ndihmuar me përkthimin dhe kuptimin e informacionit të dokumentit (dokumenteve) që kemi marrë."

RECEIVED by MSC 2/10/2021 3:37:17 PM



LARA is an Equal Opportunity Employer/Program.

List of benefit overpayments to Plaintiff Bauserman

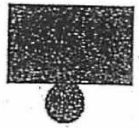
UJA 1301
(Rev. 11-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/ula



Authorized By
MCL 421.1 et seq.
Sharon Molfelt-Massey
DIRECTOR



GRANT BAUSERMAN



Mail Date: December 3, 2014
Letter ID: L0015109755
CLM: C3460229-0
Name: GRANT BAUSERMAN

Restitution
(List of Overpayments)

Case Number 0-003-036-570 BYB: October 13, 2013
SSN: ###-##-### Involved Employer: EATON AEROQUIP LLC
Claimant: GRANT BAUSERMAN Employer Number: 1584533-000

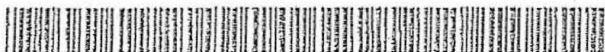
Should your disqualification or ineligibility be reversed, restitution shall cease if you are not otherwise disqualified or ineligible for unemployment benefits. Any restitution resulting from the issue(s) addressed in this (re)determination does not affect any restitution that you may owe for the same weeks on a different (re)determination or decisions.

Calculation of interest and penalty amount is shown later on this form.

Week Ending	Principal	Penalty	Total
04-Jan-2014	\$362.00	\$1,448.00	\$1,810.00
11-Jan-2014	\$362.00	\$1,448.00	\$1,810.00
18-Jan-2014	\$362.00	\$1,448.00	\$1,810.00
25-Jan-2014	\$362.00	\$1,448.00	\$1,810.00
01-Feb-2014	\$362.00	\$1,448.00	\$1,810.00
08-Feb-2014	\$362.00	\$1,448.00	\$1,810.00
15-Feb-2014	\$362.00	\$1,448.00	\$1,810.00
22-Feb-2014	\$362.00	\$1,448.00	\$1,810.00
01-Mar-2014	\$362.00	\$1,448.00	\$1,810.00
08-Mar-2014	\$362.00	\$1,448.00	\$1,810.00
15-Mar-2014	\$362.00	\$1,448.00	\$1,810.00
	\$3,982.00	\$15,928.00	\$19,910.00

Claimant must pay to the Agency in cash, by check, money order, EFT via MiWAM or deduction from benefits, restitution in the amount of \$19,910.00 under MES Act, Section 62(a) as itemized above.

Reason for overpayment does not come within the criteria for waiver. If you are unable to repay the balance owed due to indigency, you may request, or reapply for, a waiver due to your financial status at any time via fax at (517) 636-0427,



LARA is an Equal Opportunity Employer/Program.

List of benefit overpayments to Plaintiff Bauserman

UIA 1301
(Rev. 11-14)

Letter ID: L0015109755



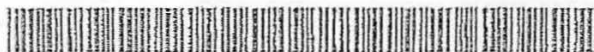
mail at UIA, PO Box 169, Grand Rapids MI 49501-0169, or your MiWAM account.

Repayment arrangements should be made with the Benefit Overpayment Collection (BOC) Unit. For information on repayment or repayment arrangements, contact BOC at 1-800-638-6372 from 9:00 a.m. to 3:00 p.m. Eastern Time Monday through Friday. Checks or money orders must be made payable to the "State of Michigan for UIA." Submit the check or money order with the payment voucher that will be attached to the monthly statement. The address is: State of Michigan, Unemployment Insurance Agency - Restitution, Dept #771760, PO Box 77000 Detroit, MI 48277-1760. DO NOT SEND CASH. You may also make restitution payments through your MiWAM account by setting up electronic funds transfer (EFT) payments.

INTEREST: Interest accrues at the rate of 1% per month (computed on a daily basis), Section 15(a) of the MES Act.

PENALTIES: If it is determined that you intentionally made a false statement, misrepresented the facts or concealed material information to obtain benefits, then the penalty provisions of Sections 54 and 62(b) of the Michigan Employment Security Act will be applied and you will be subject to any or all of the following: You would have to repay money received and pay a penalty of two times (if less than \$500 of improper payments) or four times (if \$500 or more of improper payments) the amount of benefits fraudulently received. The two times penalty would be increased to a penalty of 4 times the amount of improper payments if it were a second or subsequent offense. Your benefits will be stopped and you will lose remaining benefits. You will be required to pay court costs (if prosecuted) and fines, face jail time, or you may be required to perform community service, or all of these. Intentional misrepresentation to obtain benefits in excess of \$3,500 is a felony and you may be prosecuted in criminal court.

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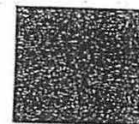


LARA is an Equal Opportunity Employer/Program.

List of benefit overpayments to Plaintiff Bauserman

UIA 1301
(Rev. 11-14)

Letter ID: L0015109755



Appeal Rights

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If you disagree with a redetermination and want to appeal, request a hearing before an Administrative Law Judge:

- You may mail, fax, or submit an online response to the following: UIA, PO Box 124, Grand Rapids, MI 49501-0124, fax to: 1-616-356-0739, or through your web account at www.michigan.gov/uia.
- All written appeals must be signed or verified. However, the Agency may accept an appeal that lacks a signature if the appeal can be verified. The Agency will notify you.

IMPORTANT ADVOCACY INFORMATION: After you appeal your redetermination to the Administrative Law Judge, an Advocate may be able to assist you at the hearing. This service is free to claimants and employers. If you are interested in using an Advocate, once you have received your Notice of Hearing, call the Advocacy Program at 1-800-638-3994 and press Option 2. Provide the Advocate Representative with the Appeal Number from your Notice of Hearing form. Some restrictions in service may apply.

TO THE CLAIMANT: If you appeal, protect your rights by continuing to certify for benefits. Report using MARVIN, either by telephone or via the Internet at www.michigan.gov/uia, and click on either heading, "UIA Online Services for Claimants", or "Certify With MARVIN Online" pending the decision on your appeal. If you go back to work, report this fact when you certify.

In accordance with the provisions of the Michigan Employment Security Act, benefits (re)determined payable in accordance with this (re)determination will be paid, even though a protest may be filed at a later date. However, if a later redetermination or decision holds that you were not entitled to receive all or part of these benefits, you will be required to repay the benefits improperly received.

If you have any questions, call the UIA at 1-866-500-0017 (TTY callers use 1-866-366-0004).

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Monthly statement to Plaintiff Bauserman

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



GRANT BAUSERMAN

Mail Date: January 13, 2015
Letter ID: L0017029145
MIN: 1106185472
Name: GRANT BAUSERMAN

Monthly Statement - First Notice

Overpayment:	\$3,982.00	Minimum Monthly Payment:	\$125.00
Penalty:	\$15,928.00	Amount Past Due:	\$0.00
Interest:	\$13.09	Monthly Payment Amount Due:	\$125.00
Balance:	\$19,923.09	Payment Due Date:	Feb-02-2015

You received a determination from the Unemployment Insurance Agency (UIA) that you were overpaid unemployment benefits, that has not been appealed and is now final. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Because this debt is legally enforceable, failure to take appropriate steps may result in collection action against you. This may include, but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MiWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

GRANT BAUSERMAN

Letter ID: L0017029145
Statement Date: 13-Jan-2015
Claimant MIN: 1106185472
Media Number: 20167436803 E
Voucher Amount: \$125.00

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

E 0000000012500 1106185472 20167436803 3

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Monthly statement to Plaintiff Bauserman

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Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 636-0427. You may mail your request to the address below or submit your request through your MiWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mall Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Notice of Intent to withhold Plaintiff Bauserman's tax refund

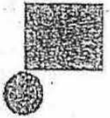
UIA 1204
(Rev. 05-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



GRANT BAUSERMAN



Mail Date: January 20, 2015
Letter ID: L0017198444
MIN: 1106185472
Name: GRANT BAUSERMAN

NOTICE OF INTENT TO REDUCE/WITHHOLD FEDERAL INCOME TAX REFUND

Overpayment:	\$3,982.00
Penalty:	\$16,928.00
Interest:	\$13.09
Total balance to be reported to TOP:	\$19,923.09

You owe the Unemployment Insurance Agency (UIA) the amount shown above for overpayment of unemployment benefits due to intentional misrepresentation or unreported earnings, in addition to any penalties and interest. If you do not pay the amount shown or take other action described below within 60 days of the mail date on this form, the UIA will submit this benefit overpayment balance (restitution) to the Treasury Offset Program (TOP) operated by the United States Department of Treasury.

Once your restitution amount is submitted to the TOP, the Department of Treasury will reduce or withhold any federal income tax refund you may be due and will instead forward that amount to the UIA. This process is known as "offset." This offset is authorized by the federal Debt Collection Act of 1982 and the federal Debt Collection Improvement Act of 1996. You may not receive another notice before your federal income tax refund is offset.

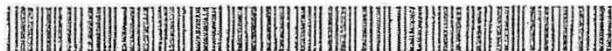
The amount of offset from your income tax refund will be used to repay the overpayment balance, including any penalties and interest you owe. Before the UIA submits the amount you owe to the Department of Treasury, you may:

- Repay your overpayment balance in full or
- Request a review, by documenting all reasons that the amount is not legally enforceable or past due on this

To pay in full the amount you owe, you may submit electronic payments through your MIWAM account at www.michigan.gov/uia or use the payment voucher from your monthly statement to mail a payment. Do not send cash. Make your check or money order payable to State of Michigan. Mail payments to:

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

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Notice of Intent to withhold Plaintiff Bauserman's tax refund

UIA 1204
(Rev. 05-14)

Letter ID: L0017198444



Request a Review: If you believe that all or part of the amount shown on this form is not past due or legally enforceable, you must send evidence to support this, along with this bar-coded form to:

Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

We will inform you of the result of your review. The result of the review cannot be protested.

Paying the minimum monthly payment stated on your Monthly Statement will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and the overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

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Monthly statements for Plaintiff Bauserman

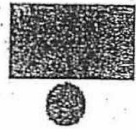
UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffat-Massey
DIRECTOR



Mail Date: February 13, 2015
Letter ID: L0018354030
MIN: 1106185472
Name: GRANT BAUSERMAN

GRANT BAUSERMAN
[Redacted]

Monthly Statement - One Missed Payment

Overpayment:	\$3,982.00	Minimum Monthly Payment:	\$125.00
Penalty:	\$15,928.00	Amount Past Due:	\$125.00
Interest:	\$40.59	Monthly Payment Amount Due:	\$250.00
Balance:	\$19,950.59	Payment Due Date:	Mar-02-2015

You failed to pay your monthly payment amount. The past due amount consists of overpaid benefits, interest, penalties and/or court costs (if applicable). Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Because this debt is past due and legally enforceable, failure to take appropriate steps may result in collection action against you. This may include, but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MiWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

GRANT BAUSERMAN
[Redacted]

Letter ID: L0018354030
Statement Date: 13-Feb-2015
Claimant MIN: 1106185472
Media Number: 7745989123 E
Voucher Amount: \$250.00

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

[Redacted box for amount enclosed]

E 0000000025000 1106185472 07745989123 7

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Monthly statements for Plaintiff Bauserman

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Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 636-0427. You may mail your request to the address below or submit your request through your MiWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy Stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the Stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Bauserman

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



Mail Date: March 13, 2015
Letter ID: L0018999267
MIN: 1106185472
Name: GRANT BAUSERMAN

GRANT BAUSERMAN
[Redacted]

Monthly Statement - Two Missed Payments

Overpayment:	\$3,982.00	Minimum Monthly Payment:	\$125.00
Penalty:	\$15,928.00	Amount Past Due:	\$250.00
Interest:	\$77.22	Monthly Payment Amount Due:	\$375.00
Balance:	\$19,987.22	Payment Due Date:	Apr-02-2015

You are now two months past due on this overpayment. The past due amount consists of overpaid benefits, interest, penalties and/or court costs (if applicable). Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Because this debt is past due and legally enforceable, failure to take appropriate steps may result in collection action against you. This may include, but is not limited to:

- Your Michigan State Income Tax Refund being intercepted,
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
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- Legal collection activity through a court of law.

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Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

GRANT BAUSERMAN
[Redacted]

Letter ID: L0018999267
Statement Date: 13-Mar-2015
Claimant MIN: 1106185472
Media Number: 19242478088 E
Voucher Amount: \$375.00

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

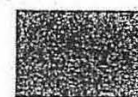
Amount Enclosed: \$

[Redacted box for amount enclosed]

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Monthly statements for Plaintiff Bauserman



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Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 636-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Bauserman

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UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Bauserman

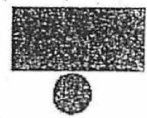
UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Talent Investment Agency
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



Mail Date: May 15, 2015
Letter ID: L0020426335
MIN: 1106185472
Name: GRANT BAUSERMAN

GRANT BAUSERMAN



Monthly Statement - Delinquent

Overpayment:	\$3,982.00
Penalty:	\$15,928.00
Interest:	\$155.76
Balance:	\$20,065.76

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
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State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

GRANT BAUSERMAN



Letter ID: L0020426335
Statement Date: May-15-2015
Claimant MIN: 1106185472
Media Number: 11907668483 E
Voucher Amount: \$20,065.76

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

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Monthly statements for Plaintiff Bauserman

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UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Bauserman

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Talent Investment Agency
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/ui



Authorized By
MCL 421.1 et seq.
Sharon Moffell-Massey
DIRECTOR



Mail Date: June 16, 2015
Letter ID: L0020970654
MIN: 1106185472
Name: GRANT BAUSERMAN

GRANT BAUSERMAN



Monthly Statement - Delinquent

Overpayment:	\$3,982.00
Penalty:	\$15,928.00
Interest:	\$196.35
Balance:	\$20,106.35

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

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Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

GRANT BAUSERMAN



Letter ID: L0020970654
Statement Date: Jun-16-2015
Claimant MIN: 1106185472
Media Number: 7942617606 E
Voucher Amount: \$20,106.35

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

Empty box for amount enclosed

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Monthly statements for Plaintiff Bauserman

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Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

STATE OF MICHIGAN
IN THE SUPREME COURT

GRANT BAUSERMAN and TEDDY
BROE, individually and on behalf of
similarly situated persons,

Plaintiffs-Appellees,

Supreme Court No. 160813

Court of Appeals No. 333181

Court of Claims No. 15-202-MM

v

MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY,

Defendant-Appellant

APPELLANT'S APPENDIX, VOLUME TWO

B. Eric Restuccia (P49550)
Deputy Solicitor General
Counsel of Record

Jason Hawkins (P71232)
Debbie K. Taylor (P59382)
Assistant Attorneys General
Attorneys for Appellant – Michigan
Unemployment Insurance Agency
Labor Division
P.O. Box 30736
Lansing, MI 48909
(517) 335-7641

Dated: February 10, 2021

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First Amended Complaint	1	007a–048a
Exhibit 2 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	049a–054a
Exhibit 14 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	055a–059a
Exhibit 15 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	060a–063a
Exhibit 16 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	064a–066a
Exhibit 21 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	067a–068a
Exhibit 22 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	069a–070a
Exhibit 24 to Agency’s Br in Supp of Motion to Dismiss, filed in Court of Claims on October 5, 2015	1	071a–080a

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Exhibit 8 to Agency’s Supplemental Br in Supp of Motion to Dismiss, filed in Court of Claims on November 9, 2015	2	006a–009a
Exhibit 9 to Agency’s Supplemental Br in Supp of Motion to Dismiss, filed in Court of Claims on November 9, 2015	2	010a–012a
Exhibit 15 to Agency’s Supplemental Br in Supp of Motion to Dismiss, filed in Court of Claims on November 9, 2015	2	013a–028a

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Plaintiff Broe's communication selection

Nov. 4. 2015 10:02AM

No. 1895 P. 30

New Claim batch 20-Nov-2015 1 of 1 e

[IDENTIFICATION](#) [UNEMPLOYMENT SERVICES](#) [ADDRESS CHANGE](#) [EMPLOYERS](#) [PAYMENT](#) **MIWAM** [UNEMPLOYMENT BENEFITS](#) [UNEMPLOYMENT SERVICES](#)

MIWAM ACCOUNT

The Michigan Web Account Manager (MIWAM) is the UIA's system for managing your unemployment claim. MIWAM is accessible 24 hours a day, seven days a week and allows you to complete many online services. You can file a claim, submit an inquiry or name change request, change your address, answer fact finding questions, certify for benefits, review your payment history, and submit your work search using your MIWAM account. Your account is secure, accurate, and a fast way to interact with UIA.

Choose your preferred method of communication: Laptop Mail

Email Address

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Agency determination on Plaintiff Broe's eligibility

UIA 1302
(Rev. 08-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/ulra



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR

TEDDY W BROE

Mall Date: July 16, 2014
Letter ID: L0012226133
CLM: C3641208-0
Name: TEDDY BROE

Notice of Determination

Case Number: 0-002-856-938 BYB: November 03, 2013
SSN: ###-##-4708 Employer Number: 1406694-000
Claimant: TEDDY BROE Involved Employer: FIFTH THIRD BANCORP

Issues and Sections of Michigan Employment Security Act involved: Voluntary Quit and 29(1)(a).

You quit your job with FIFTH THIRD BANK on April 12, 2013 due to attending school/training.

Your leaving was voluntary and not attributable to the employer.

You are disqualified for benefits under MES Act, Sec. 29(1)(a). Rework begins with week ending April 20, 2013. You will not receive benefits until you satisfy the rework requirement.

Rework Requirements: Claimant is disqualified until completion of a \$2,068.00 earnings rework requirement which has not been satisfied.

Calculation of interest and penalty amount is shown later on this form.

If you disagree with this (re)determination, refer to "Protest Rights and Appeal Rights" on the reverse side of this form.



LARA is an Equal Opportunity Employer/Program.

Agency determination on Plaintiff Broe's eligibility

UIA 1302
(Rev. 08-14)

Letter ID: L0012225133

Protest Rights and Appeal Rights

Any protest or appeal must be filed by mail, fax or web account and received within 30 calendar days from the date this notice was issued on the front side of form. If the 30th day is a Saturday, Sunday, legal holiday, or Agency non-work day, the protest or appeal must be received by the Unemployment Insurance Agency (UIA) by the end of the next day which is neither a Saturday, Sunday, legal holiday, nor Agency non-work day. If a protest or appeal is not received within 30 days, a decision will become final and restitution may be due and owing.

If you disagree with a determination and want to protest:

- You may mail, fax or submit an online response to the following: UIA, PO Box 169, Grand Rapids MI 49501-0169, fax to: (517) 636-0427, or through your web account at www.michigan.gov/uia.
- Protests must be signed or verified unless submitted through your online claim web account. However, the Agency may accept a protest that lacks a signature if the protest can be verified. The Agency will notify you.
- Attach copies of any documents, employer notices, correspondence, or other types of information that may clarify the issue you are protesting. Please retain the original documents for your files, as these documents will not be returned.
- All correspondence must have the claimant's name and Social Security Number, and the name of the employer (if applicable).
- If the 30-day protest period has already lapsed, your statement must indicate why your protest was not submitted on time.

If you disagree with a redetermination and want to appeal, request a hearing before an Administrative Law Judge:

- You may mail, fax, or submit an online response to the following: UIA, PO Box 124, Grand Rapids, MI 49501-0124, fax to: 1-816-366-0739, or through your web account at www.michigan.gov/uia.
- All written appeals must be signed or verified. However, the Agency may accept an appeal that lacks a signature if the appeal can be verified. The Agency will notify you.

IMPORTANT ADVOCACY INFORMATION: After you appeal your redetermination to the Administrative Law Judge, an Advocate may be able to assist you at the hearing. This service is free to claimants and employers. If you are interested in using an Advocate, once you have received your Notice of Hearing, call the Advocacy Program at 1-800-638-3894 and press Option 2. Provide the Advocate Representative with the Appeal Number from your Notice of Hearing form. Some restrictions in service may apply.

TO THE CLAIMANT: If you protest or appeal, protect your rights by continuing to certify for benefits. Report using MARVIN, either by telephone or via the Internet at www.michigan.gov/uia, and click on either heading, "UIA Online Services for Claimants", or "Certify With MARVIN Online" pending the redetermination or decision on your protest/appeal. If you go back to work, report this fact when you certify.

In accordance with the provisions of the Michigan Employment Security Act, benefits (re)determined payable in accordance with this (re)determination will be paid, even though a protest may be filed at a later date. However, if a later redetermination or decision holds that you were not entitled to receive all or part of these benefits, you will be required to repay the benefits improperly received.

If you have any questions, call the UIA at 1-866-500-0017 (TTY callers use 1-866-366-0004).

METHOD OF SATISFYING 13-WEEK AND 26-WEEK REQUALIFICATION: Disqualifications imposed for a 13-week or 26-week requalification period will be terminated when you complete the required period. You will be credited with a week of requalification for each week in which you:

1. Certify as directed and meet the same requirements that apply to claiming a benefit payment, or
2. Earn at least 1/13th of the minimum high quarter earnings required to establish a benefit year, rounded down to a full dollar amount. For a benefit year beginning 1/4/2009 and after, the amount is \$220.00.

To re-qualify by certifying, you must report using MARVIN, either by telephone OR via the Internet at www.michigan.gov/uia, and click on either heading "UIA Online Services for Claimants" or "Certify With MARVIN Online."

METHOD OF SATISFYING A REWORK REQUIREMENT: A disqualification imposed for a voluntary quit can be terminated after you have worked and earned an amount equal to, or greater than, 12 times your weekly benefit amount. A disqualification imposed for a suspension or discharge for misconduct can be terminated after you have worked and earned an amount equal to, or greater than, 17 times your weekly benefit amount. The earnings must be with an employer liable under the Michigan Employment Security Act or the unemployment compensation law of

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UIA 1302
(Rev. 08-14)

Letter ID: L0012225133



another state.

ELIGIBILITY FOR BENEFITS AFTER COMPLETION OF REQUALIFICATION OR REWORK: After the requalification or rework requirements are completed, the claimant may be eligible for benefits. If wages earned with the employer involved in the (re)determination fall within the base period of the claim, benefits may be paid to the claimant on the basis of such wages. However, if the requalification requirements are imposed due to a separation under Section 29(1)(h),(l),(j),(k), or (m) of the MES Act, the claimant is not entitled to benefits based on wages earned with the involved employer before the week of disqualification.

INTEREST: Interest accrues at the rate of 1% per month (computed on a daily basis), Section 15(a) of the MES Act.

PENALTIES: If it is determined that you intentionally made a false statement, misrepresented the facts or concealed material information to obtain benefits, then the penalty provisions of Sections 54 and 62(b) of the Michigan Employment Security Act will be applied and you will be subject to any or all of the following: You would have to repay money received and pay a penalty of two times (if less than \$600 of improper payments) or four times (if \$500 or more of improper payments) the amount of benefits fraudulently received. The two times penalty would be increased to a penalty of 4 times the amount of improper payments if it were a second or subsequent offense. Your benefits will be stopped and you will lose remaining benefits. You will be required to pay court costs (if prosecuted) and fines, face jail time, or you may be required to perform community service, or all of these. Intentional misrepresentation to obtain benefits in excess of \$3,500 is a felony and you may be prosecuted in criminal court.

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UIA 1302
(Rev. 08-14)

Letter ID: L0012225133

Arabic

أهلاً / بطرفين هذا المستند (المستندات) على مطهرات عامة عن حقوق الخاصة بتعويضات البطالة، وبتعويضات والار مختصاً، ولأنك من المهم جداً أن تفهم المعلومات الواردة في هذا المستند. على الفور إذا كنت بحاجة إلى مساعدة اتصل بالرقم 1-866-500-0017 للحصول على مساعدة في ترجمة وفهم المعلومات الواردة في المستند (المستندات) التي تلقاها!

Spanish

¡¡IMPORTANTE! Este documento(s) contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento.

INMEDIATAMENTE: Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 1-866-500-0017.

Mandarin

重要提示 / 这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。立即：如果需要，请拨打1-866-500-0017，可获得帮助，以帮助您翻译和理解所收到的文件中的信息。

Albanian

1. "E RËNDËSISHME! Ky dokument (dokumente) përmban informacion të rëndësishëm mbi të drejtat, përgjegjësitë dhe/ose përfilitimet tuaja nga kompensimi i papunësisë. Është shumë e rëndësishme që ta kuptoni informacionin në këtë dokument.
2. MENJËHERË: Nëse është e nevojshme, telefononi në numrin 1-866-500-0017 për t'ju ndihmuar me përkthimin dhe kuptimin e informacionit të dokumentit (dokumenteve) që keni marrë."



LARA is an Equal Opportunity Employer/Program.

Agency initial fraud determination for Plaintiff Broe

U/A 1302
(Rev. 08-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



TEDDY W BROE



Mail Date: July 16, 2014
Letter ID: L0012226131
CLM: C3641208-0
Name: TEDDY BROE

Notice of Determination

Case Number: 0-002-666-939
SSN: ###-##-4706
Claimant: TEDDY BROE

BYB: November 03, 2013
Employer Number: 1406694-000
Involved Employer: FIFTH THIRD BANK

Issues and Sections of Michigan Employment Security Act Involved: Misrepresentation and 62(b).

Your actions indicate you intentionally misled and/or concealed information to obtain benefits you were not entitled to receive.

Benefits will be terminated on any claims active on November 02, 2013.

You are disqualified for benefits under MES Act, Sec. 62(b). Restitution is due under MES Act, Sec. 62 (a). The wages used to establish your claim are cancelled and no further benefits will be paid based on those wages. In addition, you are required to pay the penalty assessed based on this determination under MES Act, Sec. 54(b). If the amount of restitution due is less than \$500, the penalty is double the restitution due, except that for a subsequent intentional misrepresentation the penalty amount is four times the restitution due. If the amount of restitution due is \$500 or more, the penalty is four times the restitution due.

Calculation of interest and penalty amount is shown later on this form.

If you disagree with this (re)determination, refer to "Protest Rights and Appeal Rights" on the reverse side of this form.



LARA is an Equal Opportunity Employer/Program.

UIA 1302
(Rev. 08-14)

Letter ID: L0012225131

Protest Rights and Appeal Rights

Any protest or appeal must be filed by mail, fax or web account and received within 30 calendar days from the date this notice was issued on the front side of form. If the 30th day is a Saturday, Sunday, legal holiday, or Agency non-work day, the protest or appeal must be received by the Unemployment Insurance Agency (UIA) by the end of the next day which is neither a Saturday, Sunday, legal holiday, nor Agency non-work day. If a protest or appeal is not received within 30 days, a decision will become final and restitution may be due and owing.

If you disagree with a determination and want to protest:

- You may mail, fax or submit an online response to the following: UIA, PO Box 169, Grand Rapids MI 49501-0169, fax to: (517) 636-0427, or through your web account at www.michigan.gov/uia.
- Protests must be signed or verified unless submitted through your online claim web account. However, the Agency may accept a protest that lacks a signature if the protest can be verified. The Agency will notify you.
- Attach copies of any documents, employer notices, correspondence, or other types of information that may clarify the issue you are protesting. Please retain the original documents for your files, as these documents will not be returned.
- All correspondence must have the claimant's name and Social Security Number, and the name of the employer (if applicable).
- If the 30-day protest period has already lapsed, your statement must indicate why your protest was not submitted on time.

If you disagree with a redetermination and want to appeal, request a hearing before an Administrative Law Judge:

- You may mail, fax, or submit an online response to the following: UIA, PO Box 124, Grand Rapids, MI 49501-0124, fax to: 1-816-356-0739, or through your web account at www.michigan.gov/uia.
- All written appeals must be signed or verified. However, the Agency may accept an appeal that lacks a signature if the appeal can be verified. The Agency will notify you.

IMPORTANT ADVOCACY INFORMATION: After you appeal your redetermination to the Administrative Law Judge, an Advocate may be able to assist you at the hearing. This service is free to claimants and employers. If you are interested in using an Advocate, once you have received your Notice of Hearing, call the Advocacy Program at 1-800-638-3994 and press Option 2. Provide the Advocate Representative with the Appeal Number from your Notice of Hearing form. Some restrictions in service may apply.

TO THE CLAIMANT: If you protest or appeal, protect your rights by continuing to certify for benefits. Report using MARVIN, either by telephone or via the Internet at www.michigan.gov/uia, and click on either heading, "UIA Online Services for Claimants", or "Certify With MARVIN Online" pending the redetermination or decision on your protest/appeal. If you go back to work, report this fact when you certify.

In accordance with the provisions of the Michigan Employment Security Act, benefits (re)determined payable in accordance with this (re)determination will be paid, even though a protest may be filed at a later date. However, if a later redetermination or decision holds that you were not entitled to receive all or part of these benefits, you will be required to repay the benefits improperly received.

If you have any questions, call the UIA at 1-866-500-0017 (TTY callers use 1-866-366-0004).

METHOD OF SATISFYING 13-WEEK AND 26-WEEK REQUALIFICATION: Disqualifications imposed for a 13-week or 26-week requalification period will be terminated when you complete the required period. You will be credited with a week of requalification for each week in which you:

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UIA 1302
(Rev. 05-14)

Letter ID: L0012226131



another state.

ELIGIBILITY FOR BENEFITS AFTER COMPLETION OF REQUALIFICATION OR REWORK: After the requalification or rework requirements are completed, the claimant may be eligible for benefits. If wages earned with the employer involved in the (re)determination fall within the base period of the claim, benefits may be paid to the claimant on the basis of such wages. However, if the requalification requirements are imposed due to a separation under Section 29(1)(h), (i), (j), (k), or (m) of the MES Act, the claimant is not entitled to benefits based on wages earned with the involved employer before the week of disqualification.

INTEREST: Interest accrues at the rate of 1% per month (computed on a daily basis), Section 15(a) of the MES Act.

PENALTIES: If it is determined that you intentionally made a false statement, misrepresented the facts or concealed material information to obtain benefits, then the penalty provisions of Sections 54 and 62(b) of the Michigan Employment Security Act will be applied and you will be subject to any or all of the following: You would have to repay money received and pay a penalty of two times (if less than \$500 of improper payments) or four times (if \$500 or more of improper payments) the amount of benefits fraudulently received. The two times penalty would be increased to a penalty of 4 times the amount of improper payments if it were a second or subsequent offense. Your benefits will be stopped and you will lose remaining benefits. You will be required to pay court costs (if prosecuted) and fines, face jail time, or you may be required to perform community service, or all of these. Intentional misrepresentation to obtain benefits in excess of \$3,600 is a felony and you may be prosecuted in criminal court.

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UIA 1302
(Rev. 08-14)

Letter ID: L0012225131



Arabic

أهلاً، هذا المستند (المستندات) على مطبوعات عامة من طرفك الخاصة بتبريد البطالة، ومسؤولياتك، وإلزامك من المهام
جداً لأن تكتم البيانات الواردة في هذا المستند.
على الفور: إذا كنت بحاجة إلى مساعدة لتصل بالبريد 1-866-500-0017 للحصول على مساعدة في ترجمة وإهم المطبوعات الواردة في المستند
(المستندات) التي تلغوها.

Spanish

¡IMPORTANTE! Este documento(s) contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento.

INMEDIATAMENTE: Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 1-866-500-0017.

Mandarin

重要提示 /

这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。
立即：如果需要，请拨打1-866-500-0017，可获得帮助，以帮助您翻译和理解所收到的文件中的信息。

Albanian

1. "E RËNDËSISHME! Ky dokument (dokumente) përmban informacion të rëndësishëm mbi të drejtat, përgjegjësitë dhe/ose përfillimet tuaja nga kompensimi i papunësisë. Është shumë e rëndësishme që ta kuptoni informacionin në këtë dokument.
2. **MENJËHERE:** Nëse është e nevojshme, telefononi në numrin 1-866-500-0017 për t'ju ndihmuar me përkthimin dhe kuptimin e informacionit të dokumentit (dokumenteve) që keni marrë."



LARA is an Equal Opportunity Employer/Program.

List of benefit overpayments for Plaintiff Broe

UIA 1301
(Rev. 07-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR

TEDDY W BROE

Mall Date: July 16, 2014
Letter ID: L0012228135
CLM: C3541208-0
Name: TEDDY BROE

Restitution
(List of Overpayments)

Case Number 0-002-658-938
SSN: ###-##-4706
Claimant: TEDDY BROE

BYB: November 03, 2013
Involved Employer: FIFTH THIRD BANCORP
Employer Number: 1406694-000

Should your disqualification or ineligibility be reversed, restitution shall cease if you are not otherwise disqualified or ineligible for unemployment benefits. Any restitution resulting from the issue(s) addressed in this (re)determination does not affect any restitution that you may owe for the same weeks on a different (re) determination or decisions.

Calculation of interest and penalty amount is shown later on this form.

Week Ending	Principal	Penalty	Total
20-Apr-2013	\$134.00	\$0.00	\$134.00
27-Apr-2013	\$119.00	\$0.00	\$119.00
04-May-2013	\$119.00	\$0.00	\$119.00
11-May-2013	\$119.00	\$0.00	\$119.00
18-May-2013	\$119.00	\$0.00	\$119.00
25-May-2013	\$119.00	\$0.00	\$119.00
01-Jun-2013	\$119.00	\$0.00	\$119.00
08-Jun-2013	\$119.00	\$0.00	\$119.00
15-Jun-2013	\$119.00	\$0.00	\$119.00
22-Jun-2013	\$119.00	\$0.00	\$119.00
29-Jun-2013	\$119.00	\$0.00	\$119.00
13-Jul-2013	\$119.00	\$0.00	\$119.00
20-Jul-2013	\$119.00	\$0.00	\$119.00
27-Jul-2013	\$119.00	\$0.00	\$119.00
03-Aug-2013	\$119.00	\$0.00	\$119.00
10-Aug-2013	\$119.00	\$0.00	\$119.00



LARA is an Equal Opportunity Employer/Program.

List of benefit overpayments for Plaintiff Broe

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UIA 1301
(Rev. 07-14)

Letter ID: L0012225136

Week Ending	Principal	Penalty	Total
17-Aug-2013	\$119.00	\$0.00	\$119.00
16-Nov-2013	\$0.00	\$696.00	\$696.00
23-Nov-2013	\$0.00	\$696.00	\$696.00
30-Nov-2013	\$0.00	\$696.00	\$696.00
07-Dec-2013	\$0.00	\$696.00	\$696.00
14-Dec-2013	\$0.00	\$696.00	\$696.00
21-Dec-2013	\$0.00	\$696.00	\$696.00
28-Dec-2013	\$0.00	\$696.00	\$696.00
04-Jan-2014	\$0.00	\$696.00	\$696.00
11-Jan-2014	\$0.00	\$696.00	\$696.00
	\$2,038.00	\$6,264.00	\$8,302.00

Claimant must pay to the Agency in cash, by check, money order, EFT via MIWAM or deduction from benefits, restitution in the amount of \$8,302.00 under MES Act, Section 62(a) as itemized above.

Reason for overpayment does not come within the criteria for waiver. If you are unable to repay the balance owed due to indigency, you may request, or reapply for, a waiver due to your financial status at any time via fax at (517) 636-0427, mail at UIA, PO Box 169, Grand Rapids MI 49501-0169, or your MIWAM account.

Repayment arrangements should be made with the Benefit Overpayment Collection (BOC) Unit. For information on repayment or repayment arrangements, contact BOC at 1-800-638-6372 from 9:00 a.m. to 3:00 p.m. Eastern Time Monday through Friday. Checks or money orders must be made payable to the "State of Michigan for UIA." Submit the check or money order with the payment voucher that will be attached to the monthly statement. The address is: State of Michigan, Unemployment Insurance Agency - Restitution, Dept #771760, PO Box 77000 Detroit, MI 48277-1760. DO NOT SEND CASH. You may also make restitution payments through your MIWAM account by setting up electronic funds transfer (EFT) payments.

INTEREST: Interest accrues at the rate of 1% per month (computed on a daily basis), Section 15(a) of the MES Act.

PENALTIES: If it is determined that you intentionally made a false statement, misrepresented the facts or concealed material information to obtain benefits, then the penalty provisions of Sections 64 and 62(b) of the Michigan Employment Security Act will be applied and you will be subject to any or all of the following: You would have to repay money received and pay a penalty of two times (if less than \$500 of improper payments) or four times (if \$500 or more of improper payments) the amount of benefits fraudulently received. The two times penalty would be increased to a penalty of 4 times the amount of improper payments if it were a second or subsequent offense. Your benefits will be stopped and you will lose remaining benefits. You will be required to pay court costs (if prosecuted) and fines, face jail time, or you may be required to perform community service, or all of these. Intentional misrepresentation to obtain benefits in excess of \$3,500 is a felony and you may be prosecuted in criminal court.



LARA is an Equal Opportunity Employer/Program.

List of benefit overpayments for Plaintiff Broe

UIA 1301
(Rev. 07-14)

Letter ID: L0012225135



Protest Rights and Appeal Rights

Any protest or appeal must be filed by mail, fax or web account and received within 30 calendar days from the date this notice was issued on the front side of form. If the 30th day is a Saturday, Sunday, legal holiday, or Agency non-work day, the protest or appeal must be received by the Unemployment Insurance Agency (UIA) by the end of the next day which is neither a Saturday, Sunday, legal holiday, nor Agency non-work day. If a protest or appeal is not received within 30 days, a decision will become final and restitution may be due and owing.

If you disagree with a determination and want to protest:

- You may mail, fax or submit an online response to the following: UIA, PO Box 169, Grand Rapids MI 49501-0169, fax to: (617) 636-0427, or through your web account at www.michigan.gov/uia.
- Protests must be signed or verified unless submitted through your online claim web account. However, the Agency may accept a protest that lacks a signature if the protest can be verified. The Agency will notify you.
- Attach copies of any documents, employer notices, correspondence, or other types of information that may clarify the issue you are protesting. Please retain the original documents for your files, as these documents will not be returned.
- All correspondence must have the claimant's name and Social Security Number, and the name of the employer (if applicable).
- If the 30-day protest period has already lapsed, your statement must indicate why your protest was not submitted on time.

If you disagree with a redetermination and want to appeal, request a hearing before an Administrative Law Judge:

- You may mail, fax, or submit an online response to the following: UIA, PO Box 124, Grand Rapids, MI 49501-0124, fax to: 1-816-368-0739, or through your web account at www.michigan.gov/uia.
- All written appeals must be signed or verified. However, the Agency may accept an appeal that lacks a signature if the appeal can be verified. The Agency will notify you.

IMPORTANT ADVOCACY INFORMATION: After you appeal your redetermination to the Administrative Law Judge, an Advocate may be able to assist you at the hearing. This service is free to claimants and employers. If you are interested in using an Advocate, once you have received your Notice of Hearing, call the Advocacy Program at 1-800-638-3994 and press Option 2. Provide the Advocate Representative with the Appeal Number from your Notice of Hearing form. Some restrictions in service may apply.

TO THE CLAIMANT: If you protest or appeal, protect your rights by continuing to certify for benefits. Report using MARVIN, either by telephone or via the internet at www.michigan.gov/uia, and click on either heading, "UIA Online Services for Claimants", or "Certify With MARVIN Online" pending the redetermination or decision on your protest/appeal. If you go back to work, report this fact when you certify.

In accordance with the provisions of the Michigan Employment Security Act, benefits (re)determined payable in accordance with this (re)determination will be paid, even though a protest may be filed at a later date. However, if a later redetermination or decision holds that you were not entitled to receive all or part of these benefits, you will be required to repay the benefits improperly received.

If you have any questions, call the UIA at 1-866-600-0017 (TTY callers use 1-866-366-0004).

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffatt-Massey
DIRECTOR



Mail Date: August 26, 2014
Letter ID: L0012792838
MIN: 1031236840
Name: TEDDY BROE

TEDDY W BROE

Monthly Statement - First Notice

Overpayment:	\$2,038.00	Minimum Monthly Payment:	\$125.00
Penalty:	\$8,264.00	Amount Past Due:	\$0.00
Interest:	\$7.36	Monthly Payment Amount Due:	\$125.00
Balance:	\$8,309.38	Payment Due Date:	Sep-15-2014

You received a determination from the Unemployment Insurance Agency (UIA) that you were overpaid unemployment benefits, that has not been appealed and is now final. Interest will be charged on any unpaid principal balances at a rate of 1.0% per month, computed on a daily basis. Because this debt is legally enforceable, failure to take appropriate steps may result in collection action against you. This may include, but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MiWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE

Letter ID: L0012792838
Statement Date: 26-Aug-2014
Claimant MIN: 1031236840
Media Number: 11170892805 E
Voucher Amount: \$125.00

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

E 0000000012500 1031236840 11170892805 8

Monthly statements for Plaintiff Broe

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Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-8372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 638-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy Stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the Stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



Mail Date: September 26, 2014
Letter ID: L0013723912
MIN: 1031235840
Name: TEDDY BROE

TEDDY WBROE

Monthly Statement - One Missed Payment			
Overpayment:	\$2,038.00	Minimum Monthly Payment:	\$125.00
Penalty:	\$6,264.00	Amount Past Due:	\$125.00
Interest:	\$12.68	Monthly Payment Amount Due:	\$250.00
Balance:	\$8,314.68	Payment Due Date:	Oct-15-2014

You failed to pay your monthly payment amount. The past due amount consists of overpaid benefits, interest, penalties and/or court costs (if applicable). Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Because this debt is past due and legally enforceable, failure to take appropriate steps may result in collection action against you. This may include, but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MIWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY WBROE

Letter ID: L0013723912
Statement Date: 26-Sep-2014
Claimant MIN: 1031235840
Media Number: 17662479363 E
Voucher Amount: \$250.00

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

Amount Enclosed: \$

E 0000000025000 1031235840 17662479363 9

Monthly statements for Plaintiff Broe

RECEIVED by MSC 2/10/2021 3:37:17 PM

Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 638-0427. You may mail your request to the address below or submit your request through your MIVAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy Stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the Stay by sending notice of your bankruptcy filing or you case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffatt-Massey
DIRECTOR



Mail Date: October 28, 2014
Letter ID: L0014261411
MIN: 1031235840
Name: TEDDY BROE

TEDDY W BROE

Monthly Statement - Two Missed Payments			
Overpayment:	\$2,038.00	Minimum Monthly Payment:	\$125.00
Penalty:	\$6,264.00	Amount Past Due:	\$250.00
Interest:	\$32.19	Monthly Payment Amount Due:	\$375.00
Balance:	\$8,334.19	Payment Due Date:	Nov-17-2014

You are now two months past due on this overpayment. The past due amount consists of overpaid benefits, interest, penalties and/or court costs (if applicable). Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Because this debt is past due and legally enforceable, failure to take appropriate steps may result in collection action against you. This may include, but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MIWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE



Letter ID: L0014261411
Statement Date: 28-Oct-2014
Claimant MIN: 1031235840
Media Number: 21371857920 E
Voucher Amount: \$375.00

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

Amount Enclosed: \$

E 0000000037500 1031235840 21371857920 0

Monthly statements for Plaintiff Broe

RECEIVED by MSC 2/10/2021 3:37:17 PM

Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 16 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 636-0427. You may mail your request to the address below or submit your request through your MiWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 6:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Massey
DIRECTOR



Mail Date: December 2, 2014
Letter ID: L0014979336
MIN: 1031235840
Name: TEDDY BROE

TEDDY W BROE



Monthly Statement - Delinquent

Overpayment:	\$2,038.00
Penalty:	\$8,264.00
Interest:	\$72.96
Balance:	\$8,374.96

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MIWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE



Letter ID: L0014979336
Statement Date: 02-Dec-2014
Claimant MIN: 1031235840
Media Number: 539028488 E
Voucher Amount: \$8,374.96

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

Amount Enclosed: \$

E 0000000837496 1031235840 00539028488 9

Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 636-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 189
Grand Rapids MI 49501-0189

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffatt-Massey
DIRECTOR



Mail Date: January 6, 2015
Letter ID: L0016768616
MIN: 1031236840
Name: TEDDY BROE

TEDDY W BROE



Monthly Statement - Delinquent

Overpayment:	\$2,038.00
Penalty:	\$6,264.00
Interest:	\$94.83
Balance:	\$8,396.83

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MiWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE



Letter ID: L0016768616
Statement Date: 08-Jan-2015
Claimant MIN: 1031236840
Media Number: 15346567680 E
Voucher Amount: \$8,396.83

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

Amount Enclosed: \$

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Monthly statements for Plaintiff Broe

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Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 16 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-838-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 638-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffatt-Massey
DIRECTOR



Mail Date: February 6, 2018
Letter ID: L0018001933
MIN: 1031235840
Name: TEDDY BROE

TEDDY W BROE

Monthly Statement - Delinquent

Overpayment: \$2,038.00
Penalty: \$6,264.00
Interest: \$115.28
Balance: \$8,417.28

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MIWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE

Letter ID: L0018001933
Statement Date: 06-Feb-2015
Claimant MIN: 1031235840
Media Number: 20802759689 E
Voucher Amount: \$8,417.28

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

E 0000000841726 1031235840 20802759689 9

Monthly statements for Plaintiff Broe

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Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

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Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 638-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-466-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-466-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Broe

UIA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffett-Messey
DIRECTOR



TEDDY W BROE
[Redacted]

Mail Date: March 6, 2015
Letter ID: L0018916094
MIN: 1031235840
Name: TEDDY BROE

Monthly Statement - Delinquent

Overpayment:	\$2,038.00
Penalty:	\$6,264.00
Interest:	\$133.93
Balance:	\$8,435.93

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MIWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mail payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE
[Redacted]

Letter ID: L0018916094
Statement Date: 06-Mar-2015
Claimant MIN: 1031235840
Media Number: 12391078404 E
Voucher Amount: \$8,435.93

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

[Redacted box for amount enclosed]

E 000000843593 1031235840 12391078404 7

Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 16 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-866-366-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 64(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 638-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy Stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2783 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the Stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2768.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Monthly statements for Plaintiff Broe

UJA 1088
(Rev. 04-14)
Rick Snyder
GOVERNOR



State of Michigan
Talent Investment Agency
Unemployment Insurance Agency
3024 W Grand Blvd, Detroit, MI 48202
www.michigan.gov/uia



Authorized By
MCL 421.1 et seq.
Sharon Moffitt-Massey
DIRECTOR



TEDDY W BROE



Mall Date: April 7, 2015
Letter ID: L0019224680
MIN: 1031235840
Name: TEDDY BROE

Monthly Statement - Delinquent

Overpayment:	\$2,038.00
Penalty:	\$6,284.00
Interest:	\$154.13
Balance:	\$8,466.13

You are past due on this overpayment. The total balance which consists of overpaid benefits, interest, penalties and/or court costs (if applicable) is now due. Interest will be charged on any unpaid principal balance at a rate of 1.0% per month, computed on a daily basis. Collection activity may now be acted upon which includes but is not limited to:

- Your Michigan State Income Tax Refund being intercepted.
- Your Federal Income Tax Refund being intercepted for overpayment of unemployment benefits due to intentional misrepresentation (fraud) or unreported earnings. The total balance must be paid in full to avoid having the Unemployment Insurance Agency (UIA) intercept your tax refund(s).
- Garnishment of wages.
- Legal collection activity through a court of law.

Please submit electronic payments through your MIWAM account at www.michigan.gov/uia or detach and use the payment voucher below to mail a payment. Do not send cash. Make your check or money order payable to: State of Michigan. If you have questions concerning the computation of your restitution balance, please contact the UIA.

Mall payments only to:
State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Please cut and return bottom portion with your payment.

Unemployment Insurance Agency Payment Voucher

TEDDY W BROE



Letter ID: L0019224680
Statement Date: Apr-07-2015
Claimant MIN: 1031235840
Media Number: 5032962563 E
Voucher Amount: \$8,466.13

State of Michigan
Unemployment Insurance Agency - Restitution
Dept #771760
PO Box 77000
Detroit, MI 48277-1760

Amount Enclosed: \$

Amount Enclosed: \$

E 0000000845613 1031235840 05032962563 8

Paying the minimum monthly payment will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

Interest: If applicable, interest is charged in accordance with Section 15 of the MES Act on any unpaid principal at a rate of 1.0% per month, computed on a daily basis. Since interest accrues daily, if you plan to pay off your total balance please contact the Benefit Overpayment Collection Unit at 1-800-638-6372 (TTY customers use 1-888-386-0004) from 9:00 a.m. to 3:30 p.m. Eastern Time, Monday through Friday for your current balance.

Penalties: If applicable, penalties are assessed in accordance with Section 54(b) of the MES Act.

Recoupment of UIA Benefits: If you are claiming unemployment benefits, UIA will recoup 50% of the benefits payable each week for overpayment in which there was no intentional misrepresentation found, and UIA will recoup 100% of benefits payable each week for overpayment in which intentional misrepresentation was found.

Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (617) 638-0427. You may mail your request to the address below or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-456-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-456-2766.

Mail Requests and Correspondence for Review to:
Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169

Notice of intent to withhold Plaintiff Broe's tax refund

UIA 1204
(Rev. 05-14)

Letter ID: L0013248828

Request a Review: If you believe that all or part of the amount shown on this form is not past due or legally enforceable, you must send evidence to support this, along with this bar-coded form to:

**Benefit Overpayment Collection Unit
UIA
PO Box 169
Grand Rapids MI 49501-0169**

We will inform you of the result of your review. The result of the review cannot be protested.

Paying the minimum monthly payment stated on your Monthly Statement will not stop your federal income tax refund from being intercepted by the UIA. If you file a joint income tax return, you should obtain IRS Form 8379, *Injured Spouse Claim and Allocation*, before filing your return. The instructions will explain the steps your spouse may take to obtain his or her share of your joint income tax refund. In addition, if you are currently receiving unemployment benefits and the overpayment deductions are being withheld from your payments by the UIA, your income tax refund(s) will still be intercepted by the UIA to pay off your balance(s).

TOP fee: If an overpayment account is referred to the Treasury Offset Program (TOP) for payment, a Tax Refund Offset fee of \$17.00 (this fee may change on a yearly basis) is charged by the federal government and state law provides that you are liable for that processing fee.

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Financial hardship: If you are unable to repay the balance owed due to indigency, you may request a waiver due to your financial status at any time via fax at (517) 638-0427. You may mail your request to the address above or submit your request through your MIWAM account.

Bankruptcy: If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset. You may contact the bankruptcy unit at 1-313-466-2793 from 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday. You may notify the UIA of the stay by sending notice of your bankruptcy filing or your case number along with a written request to the agency via fax to 1-313-466-2766.

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Court of Claims' Opinion and Order

RECEIVED by MSC 2/10/2021 3:37:17 PM

STATE OF MICHIGAN
COURT OF CLAIMS

GRANT BAUSERMAN, KARL WILLIAMS,
and TEDDY BROE,

OPINION AND ORDER

Plaintiffs,

v

Case No. 15-000202-MM

UNEMPLOYMENT INSURANCE AGENCY,

Hon. Judge Cynthia Diane Stephens

Defendant.

At a session of said Court held,
Detroit, Wayne, Michigan, on

March 8, 2016

PRESENT: Honorable Cynthia Diane Stephens
Court of Claims Judge

In this putative class action, plaintiffs challenge the constitutionality of aspects of Michigan's unemployment benefits program. Named plaintiffs are three individuals who were recipients of unemployment benefits under the Michigan Employment Security Act, MCL 421.1 *et seq.* On September 9, 2015, plaintiff, Grant Bauserman, filed a complaint in the Court of Claims alleging that defendant's fraud-detection program, and its collection and seizure of assets pursuant to the program, violated the due process clause of the Michigan Const 1963, Art 1, § 17. After defendant filed, in lieu of an answer, its October 5, 2015 motion to dismiss, plaintiff amended his complaint on October 19, 2015, as a matter of course, adding as named plaintiffs, Karl Williams and Teddy Broe. The matter has been fully briefed and a hearing was held before

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the Court on March 8, 2015. For the reasons set forth below, defendant's motion to dismiss is DENIED.

A. Factual Background and Procedural History¹

In 2013, defendant, the Unemployment Insurance Agency ("UIA"), implemented a fraud-detection program. At the core of this program was an automated system known as the Michigan Integrated Data Automated System ("MIDAS"). The software was allegedly designed to search for discrepancies and inconsistencies that might be suggestive of fraudulent claim behavior. Although each of the plaintiffs' factual scenarios is slightly different, a review of plaintiff Bauserman's factual allegations demonstrates how the automated system was employed. According to the amended complaint, Bauserman was terminated from his employment in September 2013. After his termination, Bauserman applied for unemployment (UIA) benefits. Bauserman received UIA benefits from October 2013 through March 2014. In late March 2014, plaintiff received from his former employer, a lump sum deferred payment of his pro-rated 2013 bonus, which he earned during his employment from January 1, 2013 through September 30, 2013. According to plaintiff, although the bonus was received in 2014, it did not reflect any earning during the year 2014. Apparently, defendant's automated system, however, detected a discrepancy and concluded that plaintiff had received UIA benefits while he was earning income. On October 9, 2014, defendant sent a request for information relative to ineligibility or disqualification to Mr. Bauserman's online "MiWAM" account (the Michigan Web Account Management System). Bauserman had no reason to check this electronic account in October

¹ The facts were discerned from plaintiffs' amended complaint.

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2014 because he was no longer receiving UIA benefits. (UIA benefits ended in March 2014.) Indeed, Bauserman did not see the message until late November 2014. In December 2014, Bauserman began contacting defendant in writing to explain that the bonus received in 2014 was for work performed prior to his termination in 2013. Plaintiff even provided UIA with a letter from his former employer explaining that he had not worked for or received income from the former employer during his UIA benefit period. Defendant failed to respond to Bauserman's written communications. Then, on February 13, 2015, defendant notified Bauserman that he had been overpaid UIA benefits, and would be assessed a \$15,928.00 penalty. The letter also advised Bauserman that collection actions may ensue. On March 17, 2015, Bauserman again sent correspondence to defendant explaining that his bonus, received in March 2014, was for work performed before unemployment benefits began. Then, on June 6, 2015, the United States Department of Treasury notified Bauserman that his federal income tax refund had been seized by the State of Michigan to collect on his unemployment debt. Similar action was taken by the State of Michigan Treasury. Finally, on September 30, 2015, the UIA issued a redetermination indicating, without explanation, that its earlier fraud determination was null and void. At the time of the filing of the amended complaint, Bauserman still had not received any refunds from the UIA. However, at the time of the March 8, 2016 hearing, plaintiffs' counsel represented that partial repayment had been refunded to Bauserman. (M, pp 35-36.)

Plaintiff Teddy Broe's factual scenario is similar to that alleged by Bauserman. According to the amended complaint, between February 15, 2013 and April 15, 2013, Broe worked for Fifth Third Bank under a seasonal tax trust internship to assist with filings for the 2012 tax year. When the internship concluded, plaintiff applied for UIA benefits and represented that employment terminated due to "seasonal discharge." UIA approved Broe's claim for

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unemployment benefits and plaintiff received approximately \$2,200.00 in UIA benefits before he obtained new employment in November 2013. However, UIA continued to send requests for information and other communications regarding ineligibility or disqualification to Broe's MiWAM account. Indeed, in the summer of 2014, UIA sent to Broe's MiWAM account notice of determination indicating that Broe had committed fraud and would be liable for restitution, interest and penalties. However, Broe did not receive any of these notices because they were sent only to his MiWAM account, an online account he no longer accessed because he was re-employed and not claiming any UIA benefits. In 2015, Broe received a notice from UIA that he owned a debt of approximately \$8,800.00, representing overpayment, interest and penalties for fraud. Broe filed a protest with the UIA, however, his protests were denied as untimely. Then, in May 2015, UIA intercepted Broe's state and federal income tax refunds. Finally, according to the affidavit of Teresa Burns, UIA issued a redetermination on November 4, 2015, wherein UIA determined that Broe did not owe restitution or penalties.

Plaintiff Williams factual allegations demonstrate yet a different scenario. Williams began his employment with Wingfoot Commercial Tire System in May 2011. At the time he began this employment, Williams was receiving UIA benefits based on his unemployment from a previous employer. After the Wingfoot employment began, Williams continued to contact UIA's automated MARVIN system. When doing so, he reported that he was receiving some earnings from Wingfoot. UIA, however, did not adjust Williams' benefits to reflect an offset for his Wingfoot wages; additionally, Williams believed that he was still entitled to UIA benefits because his Wingfoot wages were, at that time, less than 1 ½ times his weekly UIA benefit rate. On June 22, 2012, the UIA issued a redetermination holding Williams ineligible for benefits. Also on that date, the UIA ordered Williams to pay restitution in the amount of \$9,875.00 and

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penalties of \$39,500.00. Also on June 22, 2012, in a second determination of penalty correspondence, UIA found Williams liable for “unpaid Fraud Weeks” and assessed an additional \$11,584.00 penalty.

Plaintiff Williams filed a late protest of these determinations. Then, on July 1, 2014, an administrative law judge concluded that Williams could not establish good cause for failing to timely protest the June 22, 2012 determinations. On October 29, 2013, Williams received a garnishment notice from the UIA for the amount of \$64,069.00. Then, on February 19, 2015, Williams received notice that his Federal income tax refund would be intercepted and seized by the UIA. The Agency is currently reviewing the account to verify the accuracy of the restitution, penalties, and interest. (Teresa Burns Affidavit.)

Plaintiffs’ amended complaint alleges that they possessed a property interest in their unemployment benefits, tax refunds and wages, and that the State garnished and seized such property without due process. Specifically, plaintiffs allege that defendant “deprived UIA claimants of due process through the following customs, policies and practices: (1) utilizing an automated decision-making system (the “MiDAS” system) to detect and adjudicate suspected instances of unemployment fraud, which determines guilt without notice or proof and without providing claimants an opportunity to be heard before penalties are imposed; and (2) utilizing unlawful collection practices to recover alleged overpayments, interest and penalties.”

Defendant moves for summary disposition pursuant to MCR 2.116(C)(4), (7) and (8), arguing (1) that plaintiffs have failed to comply with the notice provisions of MCL 600.6431, (2) that the Court lacks subject matter jurisdiction, and (3) that plaintiffs’ claims are barred by

Court of Claims' Opinion and Order

governmental immunity. None of the arguments presented in defendant's motion merit granting the dismissal of plaintiffs' amended complaint.

(A) Compliance with the Notice Provisions of MCL 600.6431

For its first argument, defendant asserts that plaintiffs failed to comply with the notice provision of MCL 600.6431(3). This Court disagrees. In general, governmental agencies are statutorily immune from tort liability. *McCahan v Brennan*, 492 Mich 730,736; 822 NW2d 747 (2012). "However, because the government may voluntarily subject itself to liability, it may also place conditions or limitations on the liability imposed." *Id.* The notice provision set forth in MCL 600.6431 is one such condition precedent to bringing suit against a government entity in derogation of governmental immunity. *Id.* MCL 600.6431(1) provides that a notice of intent to file a claim against the state, or the claim itself, must be filed in the Court of Claims within a year after the claim accrues. However, if the claim is for personal injuries or property damage, the time frame is shortened to six months. MCL 600.6431(3). Both parties agree that plaintiffs' claims are subject to the six-month notice provision. Defendant asserts, however, that plaintiff did not file their complaint within six months of the date their cause of action accrued. This Court disagrees.

Defendant argues that plaintiffs' causes of action accrued when defendant issued adjudications that the UIA recipients were liable to the Agency for unemployment benefits paid and penalties. For Bauserman, defendant represents that Bauserman was notified on December 3, 2014 of such liability; Broe was notified on July 15, 2014, and Williams was notified on June 22, 2012. Defendant then reasons that because Bauserman's September 9, 2015 complaint was not filed within six months of December 3, 2014, his claims are barred. Similarly, defendant

Court of Claims' Opinion and Order

argues that the claims of Broe and Williams are barred because the October 19, 2015 amended complaint, which named them as party-plaintiffs for the first time, was not filed within six months of defendant's adjudicating them liable for unemployment benefits and penalties. In the Court's opinion, defendant's reasoning is flawed. This Court finds that plaintiffs' causes of action did not accrue when defendant first notified them of their liability for unemployment benefits and penalties, but rather, much later.

Generally, a claim accrues "at the time the wrong upon which the claim is based was done regardless of the time when damage results." MCL 600.5827. For purposes of MCL 600.6431(1) a claim accrues when a "suit may be maintained thereon." *Cooke Contracting Co v Michigan*, 55 Mich App 336, 338; 222 NW2d 231 (1974). That is, a claim for personal injuries accrues when all of the elements are present and can be properly pleaded in a complaint. *Connelly v Paul Ruddy's Equipment Repair & Service Co*, 388 Mich 146, 151; 200 NW2d 70 (1972). In this case, the Court finds that the plaintiffs' causes of action accrued when defendant issued a redetermination wherein it concluded that plaintiffs had not received UIA benefits fraudulently. Plaintiffs' constitutional tort claim is premised upon the assertion that they were falsely accused of fraud and wrongly deprived of their property without due process. Defendant's redetermination that plaintiffs had not committed fraud and were, in fact, eligible for benefits, was an inherent element of this theory. Thus, at the time the Agency issued its redetermination, plaintiffs could fully allege the elements of their constitutional claim. That is, plaintiffs could then file suit and obtain relief. In Bauserman's case, the UIA issued a redetermination on September 30, 2015, which rendered its previous fraud determination "null and void." Similarly, the Agency issued Broe's redetermination on November 4, 2015. Because the

Court of Claims' Opinion and Order

October 19, 2015 amended complaint was filed within six months of the redetermination dates, plaintiffs have complied with the statutory requirements of MCL 600.6431.

B. Damage Claims

Next, defendant argues that because plaintiffs have been refunded all the monies intercepted, there is no claim upon which relief can be granted. This Court disagrees. Initially, the Court would note that according to representations made on the record, Bauserman and Broe have not been fully refunded the amounts seized. In any event, simply returning that which the UIA allegedly unlawfully intercepted would not, necessarily, make the plaintiffs whole. Depriving plaintiffs, even temporarily, of their wages, unemployment benefits, and tax refunds, could have created additional economic hardships, including damage to their credit ratings, incurring additional debt and finance charges, and non-economic damages related to the false allegations of fraud. Thus, simply returning the funds intercepted and garnished would not render plaintiffs' constitutional claims moot.

C. Governmental Immunity.

Next, defendant argues that plaintiffs' claims for economic damages are barred by governmental immunity. This Court disagrees. In *Smith v Dept of Public Health*, 428 Mich 540, 544; 410 NW2d 749 (1987), aff'd sub nom *Will v Dept of State Police*, 491 US 58; 109 S Ct 2304; 105 L Ed 2d 45 (1989), by memorandum opinion, a majority of the justices agreed that "where it is alleged that the state, by virtue of custom or policy, has violated a right conferred by the Michigan Constitution, governmental immunity is not available in a state court action." (Emphasis added.) This same majority further agreed that "[a] claim for damages against the state arising from violation by the state of the Michigan Constitution may be recognized in

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appropriate cases.” *Id.* Therefore, in general, constitutional tort claims are not barred by governmental immunity. However, defendant further argues that plaintiffs cannot establish an additional prerequisite for maintaining a constitutional tort claim. Following its decision in *Smith*, the Supreme Court in *Jones v Powell*, 462 Mich 329; 612 NW2d 423 (2000), further explained that “*Smith* only recognized a narrow remedy against the state on the basis of the unavailability of any other remedy.” *Id.* at 337 (emphasis added). Relying upon the language in *Smith*, defendant argues that because plaintiffs could pursue the administrative process, they had “other remedies available,” and therefore, they cannot maintain a constitutional tort claim. This Court finds defendant’s argument unavailing. Simply put, the administrative process fails to afford sufficient relief to plaintiff’s challenging an entire statutory and policy scheme. Therefore, a constitutional tort claim continues to be viable.

D. Failure to Exhaust Administrative Remedies.

Next, defendant asserts that plaintiffs’ claims for relief are barred because plaintiffs have failed to exhaust their administrative remedies. Again, this Court disagrees. The doctrine of exhaustion of administrative remedies generally requires that *where an administrative agency provides a remedy*, a party must seek such relief before petitioning the court.” *Cummins v Robinson Twp*, 283 Mich App 677, 691; 770 NW2d 421 (2009) (emphasis added). However, where plaintiffs raise a facial constitutional challenge to defendant’s policies and procedures, they are exempt from a requirement that they exhaust their administrative remedies. *Bruley v City of Birmingham*, 259 Mich App 619, 628; 675 NW2d 910 (2003). Plaintiffs’ complaint challenges defendant’s use of an automated system to detect and decide whether claimants had committed fraud. Plaintiffs allege that the use of the MiDAS automated procedures violated claimants’ rights to due process in violation of Const 1963, art 1, § 17. Plaintiffs also challenge

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the constitutionality of defendant's collection policies and procedures. This Court concludes that plaintiffs have raised a facial challenge to the constitutionality of defendant's policies and procedures, therefore, they are not required to exhaust their administrative remedies. *Id.*

E. Standing

Plaintiffs' amended complaint alleges that several of defendant's penalty and collection practices and policies are constitutionally infirm. Defendant asserts that plaintiffs do not have standing to challenge certain practices because they have not alleged that they, specifically, were impacted by the identified policies. For example, defendant represents that "no plaintiff alleges he was assessed a four times penalty on the first week payment" and "no plaintiff alleges he was charged interest on the penalties." (Defendant's supplemental brief, p 14.) In response, plaintiffs assert that their complaint alleges that they were subject to these illegal practices. (Plaintiffs' Response to Defendant's Motion, p 19.) In particular, plaintiffs note that with respect to plaintiff Williams, it has been specifically alleged that he was "assess[ed] interest on a penalty amount in violation of Section 15(a)." (Complaint, ¶¶ 114-125.) The Court concludes that it would be premature to consider this issue. Plaintiffs have specifically alleged that at least one of them was subject to one of the challenged practices. Therefore, defendant's assertion to the contrary is not entirely accurate. Moreover, this is a putative class action and discovery is continuing. "Generally, a motion for summary disposition is premature if granted before discovery on a disputed issue is complete." *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 24-25; 672 NW2d 351 (2003) (citations omitted). Therefore, defendant's motion to dismiss on this ground will be denied, without prejudice.

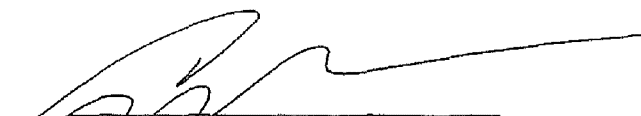
F. Private Cause of Act under the SSA, IRC and UIPL.

Court of Claims' Opinion and Order

Finally, defendant also asserts that because no private cause of action exists for violations of the Social Security Act and Internal Revenue Code, claims alleging violations of the acts must be dismissed pursuant to MCR 2.116(C)(8). Similarly, defendant also argues that there is no private cause of action for a violation of an Unemployment Insurance Program Letter (“UIPL”).² Although plaintiffs’ amended complaint references provisions of the SSA and the IRC, and the October 1, 2015 USDOL directive, plaintiff has not specifically alleged a claim for violations of these acts and directive. Plaintiffs’ one-count complaint simply alleges that defendant’s fraud-detection system and collection and penalty procedures violate Michigan Const 1963, art 1, § 17. Moreover, plaintiff represents that they do not seek to pursue a private cause of action under either the Social Security Act or the Internal Revenue Code. (Plaintiffs’ Brief, Footnote 5.) Therefore, it is unnecessary to address this issue.

IT IS HEREBY ORDERED that Defendant’s motion to disnaiss is DENIED.

Dated: May 10, 2016



Hon. Cynthia Diane Stephens
Court of Claims Judge

² According to the complaint, on October 1, 2015, the USDOL issued a UIPL indicating that states may not make determinations of overpayments and/or fraud using automated systems without the input of agency staff. Plaintiffs referenced this UIPL in their amended Complaint.

**STATE OF MICHIGAN
COURT OF APPEALS**

GRANT BAUSERMAN, KARL WILLIAMS and
TEDDY BROE, on Behalf of Themselves and All
Others Similarly Situated,

UNPUBLISHED
July 18, 2017

Plaintiffs-Appellees,

v

No. 333181
Court of Claims
LC No. 15-000202-MM

UNEMPLOYMENT INSURANCE AGENCY,

Defendant-Appellant.

Before: GADOLA, P.J., and METER and FORT HOOD, JJ.

PER CURIAM.

In this class action lawsuit, defendant Unemployment Insurance Agency (UIA) appeals as of right the trial court's order denying its motion for summary disposition. Plaintiffs Grant Bauserman (Bauserman), Karl Williams (Williams) and Teddy Broe (Broe) in this case are individuals who have filed a class action alleging that defendant violated their rights to due process when investigating whether plaintiffs committed fraud in receiving unemployment benefits. We reverse.

I. FACTS AND PROCEDURAL HISTORY

This appeal arises from a class action lawsuit initiated by the plaintiffs against defendant arising from their claims for unemployment benefits with defendant. On September 9, 2015, Bauserman filed a class action complaint against defendant in the Court of Claims alleging that defendant "utilizes an automated decision-making system to detect and adjudicate suspected instances of employment benefit fraud." Bauserman further alleged that defendant's "automated decision-making system[,] known as the Michigan Integrated Data Automated System ("MiDAS") deprives UIA claimants of due process and fair and just treatment because it determines guilt without providing notice, without proving guilt and without affording claimants an opportunity to be heard before penalties are imposed." The complaint alleged, with regard to Bauserman, that after a determination that Bauserman had engaged in fraudulent conduct with regard to his unemployment benefits, "[defendant] seized [Bauserman's] property without notice of the specific grounds for the allegations against him, without providing 60 days in which to present evidence, without providing him an opportunity to present evidence, . . . and without the notice and other due process required by federal law and the Michigan constitution."

Bauserman received unemployment benefits from October 2013 until March 29, 2014. Defendant's determination that Bauserman had engaged in fraud apparently arose after Bauserman received a payment from his former employer that was a "deferred payment of his pro-rated 2013 bonus," earned during his employment with his former employer in the 2013 calendar year. This followed defendant sending Bauserman and his former employer questionnaires to investigate the matter. While Bauserman and his former employer did eventually respond to defendant's inquiries, the nature of the payment from Bauserman's former employer was still unclear to defendant. According to the complaint, defendant then determined that it had overpaid unemployment benefits to Bauserman, and assessed penalties and interest. Bauserman was issued both an "Ineligibility Determination" as well as a "Fraud Redetermination[.]" Bauserman was also informed that penalties would include "interception of [his] state income tax refund, interception of his federal tax refund, garnishment of his wages, and legal collection activity through a court of law." Bauserman alleged that defendant seized the proceeds of his federal income tax refund and his state income tax refund. The parties do not dispute that defendant ultimately reconsidered its earlier determinations that Bauserman was ineligible for unemployment benefits and had engaged in fraud after receiving notice from Bauserman that the payment at issue from his former employer was a bonus he received while still employed by his former employer. Bauserman was ultimately not liable to pay back any unemployment benefits or have any penalties or interest assessed. Any monies seized from Bauserman were returned by defendant.

Plaintiffs filed their first amended complaint on October 19, 2015 naming Williams and Broe as plaintiffs in addition to Bauserman. Where the facts with respect to Williams and Broe are not disputed, we will refer to the portion of the trial court's written ruling addressing the facts pertinent to Williams and Broe.

Plaintiff Teddy Broe's factual scenario is similar to that alleged by Bauserman. According to the amended complaint, between February 15, 2013 and April 15, 2013, Broe worked for Fifth Third Bank under a seasonal tax trust internship to assist with filings for the 2012 tax year. When the internship concluded, plaintiff applied for UIA benefits and represented that employment terminated due to "seasonal discharge." UIA approved Broe's claim for unemployment benefits and plaintiff received approximately \$2,200.00 in UIA benefits before he obtained new employment in November 2013. However, UIA continued to send requests for information and other communications regarding ineligibility or disqualification to Broe's [online account with defendant]. Indeed, in the summer of 2014, UIA sent to Broe's [online account] [a] notice of determination indicating that Broe had committed fraud and would be liable for restitution, interest and penalties. However, Broe did not receive any of these notices because they were sent only to his [online account], an online account he no longer accessed because he was re-employed and not claiming any UIA benefits. In 2015, Broe received a notice from UIA that he owned [sic] a debt of approximately \$8,800.00 representing overpayment, interest and penalties for fraud. Broe filed a protest with the UIA, however his protests were denied as untimely. Then, in May 2015, UIA intercepted Broe's state and federal income tax refunds. Finally, . . . UIA issued a redetermination on November 4, 2015, wherein UIA determined that Broe did not owe restitution or penalties.

Court of Appeals' 07/18/17 Opinion

Plaintiff Williams's factual allegations demonstrate yet a different scenario. Williams began his employment with Wingfoot Commercial Tire System in May 2011. At the time he began this employment, Williams was receiving UIA benefits based on his unemployment from a previous employer. After the Wingfoot employment began, Williams continued to contact UIA's automated MARVIN system. When doing so, he reported that he was receiving some earnings from Wingfoot. UIA, however, did not adjust Williams' benefits to reflect an offset for his Wingfoot wages; additionally Williams believed that he was still entitled to UIA benefits because his Wingfoot wages were, at that time, less than 1½ times his weekly UIA benefit rate. On June 22, 2012, the UIA issued a redetermination holding Williams ineligible for benefits. Also on that date, the UIA ordered Williams to pay restitution in the amount of \$9,875.00 and penalties of \$39,500.00. Also on June 22, 2012, in a second determination of penalty correspondence, UIA found Williams liable for "unpaid Fraud Weeks" and assessed an additional \$11,584.00 penalty.

Plaintiff Williams filed a late protest of these determinations. Then, on July 1, 2014, an administrative law judge concluded that Williams could not establish good cause for failing to timely protest the June 22, 2012 determinations. On October 29, 2013, Williams received a garnishment notice from UIA for the amount of \$64,069.00. Then, on February 19, 2015, Williams received notice that his Federal income tax refund would be intercepted and seized by the UIA. The agency is currently reviewing the account to verify the accuracy of the restitution, penalties and interest¹

II. STANDARD OF REVIEW

On appeal, defendant argues that the trial court erred in denying its motion for summary disposition where plaintiffs' claims were not filed in compliance with the governing provision of the Court of Claims Act, MCL 600.6401 *et seq.* We agree.

A trial court's decision on a motion for summary disposition is reviewed *de novo*. *Nuculovic v Hill*, 287 Mich App 58, 61; 783 NW2d 124 (2010). As relevant to this appeal, defendant moved for summary disposition of plaintiffs' claims pursuant to MCR 2.116(C)(7) which provides that "dismissal of the action . . . is appropriate because of . . . immunity granted by law, [or the statute of limitations.]" Defendant also moved for dismissal of plaintiffs' claims pursuant to MCR 2.116(C)(8), which provides for summary disposition where "[t]he opposing party has failed to state a claim on which relief can be granted." The trial court did not specify under which subrule of MCR 2.116 it was denying summary disposition, however it is apparent from its ruling that it considered documentary evidence outside of the pleadings. "A motion for summary disposition under subrule (C)(8) tests the legal sufficiency of the pleadings alone." *Nuculovic*, 287 Mich App at 61 (citations omitted). Accordingly, the trial court's decision should be reviewed in accordance with MCR 2.116(C)(7). As this Court recently recognized in

¹ In its brief on appeal, defendant states that defendant is still collecting its debt from Williams.

Goodhue v Dep't of Transp, ___ Mich App ___, ___; ___ NW2d ___ (2017) (Docket No. 332467); slip op at 2:

Summary disposition is appropriate under MCR 2.116(C)(7) if a claim is barred because of, among other things, “immunity granted by law.” When reviewing a motion for summary disposition under this subrule, a court accepts “all well-pleaded factual allegations as true and construe[s] them in favor of the plaintiff, unless other evidence contradicts them.” *Dextrom v Wexford Co*, 287 Mich App 406, 428; 789 NW2d 211 (2010). Further,

[i]f any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact. If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue for the court. [*Id.* at 429 (citations omitted).]

Summary disposition is also properly granted pursuant to MCR 2.116(C)(7) where a claim is barred by the applicable statute of limitations. *Henry v Dow Chemical Co*, ___ Mich App ___, ___; ___ NW2d ___ (2017) (Docket No. 328716); slip op at 4.

This appeal also requires us to undertake a de novo review of the statutory language of MCL 600.6431(3). *Lewis v Farmers Ins Exch*, 315 Mich App 202, 209; 888 NW2d 916 (2016). In *McCahan v Brennan*, 492 Mich 730, 736; 822 NW2d 747 (2012), the Michigan Supreme Court set forth the inquiry this Court must undertake when construing statutory language.

[This Court’s] primary objective when interpreting a statute is to discern the Legislature’s intent. This task begins by examining the language of the statute itself. The words of a statute provide the most reliable evidence of its intent[.] When the Legislature has clearly expressed its intent in the language of the statute, no further construction is required or permitted. [Footnotes and quotation marks omitted.]

III. ANALYSIS

The relevant statute, MCL 600.6431, which is part of the Court of Claims Act, provides as follows:

(1) No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time when and the place where such claim arose and in detail the nature of the same and of the items of damage alleged or claimed to have been sustained, which claim or notice shall be signed and verified by the claimant before an officer authorized to administer oaths.

(2) Such claim or notice shall designate any department, commission, board, institution, arm or agency of the state involved in connection with such claim, and

a copy of such claim or notice shall be furnished to the clerk at the time of the filing of the original for transmittal to the attorney general and to each of the departments, commissions, boards, institutions, arms or agencies designated.

(3) *In all actions for property damage or personal injuries, claimant shall file with the clerk of the court of claims a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action.* [Emphasis added.]

In *Fairley v Dep't of Corrections*, 497 Mich 290, 292; 871 NW2d 129 (2015), the Michigan Supreme Court recognized that “[t]he purpose of MCL 600.6431 is to establish those conditions precedent to pursuing a claim against the state.” In *Fairley*, the Michigan Supreme Court considered whether the plaintiffs’ failure to strictly comply with the notice verification provisions of MCL 600.6431(1) provided the defendant state agencies with a complete defense to the plaintiffs’ claims. *Fairley*, 497 Mich at 292, 293. In undertaking its analysis, the *Fairley* Court noted that the defendant state agencies, the Department of Corrections and the Michigan State Police, as “governmental agencies, are broadly shielded from tort liability.” *Id.* at 297.

[W]hile MCL 600.6431 does not confer governmental immunity, it establishes conditions precedent for avoiding the governmental immunity conferred by the [government tort liability act (GTLA), MCL 691.1401 *et seq.*] which expressly incorporates MCL 600.6431. As a result, [a] plaintiff[] must adhere to the conditions precedent in MCL 600.6431(1) to successfully expose the defendant state agencies to liability. [*Fairley*, 497 Mich at 297-298 (footnote omitted).]

Where the plaintiffs’ notices of intent did not meet the requirements of MCL 600.4831(1), the *Fairley* Court ultimately concluded that the plaintiffs “failed to defeat the protection of governmental immunity to which [the defendant state agencies] are entitled.” *Fairley*, 497 Mich at 301 (footnote omitted).

In the present appeal, the parties concede that plaintiffs’ cause of action is one for “property damage or personal injuries,” MCL 600.6431(3), and that the determinative question for us to decide is what event gave rise to their cause of action. Put another way, we are asked to determine whether the six months within which plaintiffs were required to file a notice of intention to file a claim, or the claim itself, began to run (1) when defendant issued notices informing plaintiffs that they were disqualified from receiving unemployment benefits, or (2) when defendant actually seized plaintiffs’ property.

In *McCahan*, 492 Mich at 730, the Michigan Supreme Court recognized that it is “the sole province of the Legislature to determine whether and on what terms the state may be sued[.]” Notably, the *McCahan* Court observed that “the judiciary has no authority to restrict or amend those terms.” *Id.* The *McCahan* Court, confronted with the issue of how subsections (1) and (3) of MCL 600.6431 are to be construed, also urged “a contextual understanding” of the statute. *McCahan*, 492 Mich at 738. In *McCahan*, the plaintiff asserted that her claim for personal injuries was not “subject to the dictates or bar-to-claims language of MCL 600.6431(1).” *McCahan*, 492 Mich at 738. The plaintiff further argued that where her claim was governed by MCL 600.6431(3), and the Legislature did not include language in that

subsection barring her claim if there was any deficiency with regard to notice, her claims against the state were not prohibited as a result. *McCahan*, 492 Mich at 739. In *McCahan*, the plaintiff was injured by a vehicle driven by a student that was owned by the University of Michigan, and she did not file a notice of intention to file a claim or her claim within six months of the subject accident. *Id.* at 733-734. Rejecting the plaintiff’s argument that “only subsection (3) [of MCL 600.6431] governs her claim and acts as an independent provision that excludes application of subsection (1)[,]” the *McCahan* Court ruled, in pertinent part, as follows:

When undertaking statutory interpretation, the provisions of a statute should be read reasonably and in context. *Doing so here leads to the conclusion that MCL 600.6431 is a cohesive statutory provision in which all three subsections are connected and must be read together.* Subsection (1) sets forth the general notice required for a party to bring a lawsuit against the state, while subsection (3) sets forth a special timing requirement applicable to a particular subset of those cases—those involving property damage or personal injury. Subsection (3) merely reduces the otherwise applicable one-year deadline to six months. In this regard, subsection (3) is best understood as a subset of the general rules articulated in subsection (1), and those general rules and requirements articulated in subsection (1)-including the bar-to-claims language-continue to apply to all claims brought against the state unless modified by the later-stated specific rules. [*McCahan*, 492 Mich at 739 (emphasis added; footnote omitted).]

The *McCahan* Court went on to observe that “a reasonable person reading the statute would understand that subsections (1) and (3) are related and interdependent.” *Id.* at 741.

Most important, the *context* of the entire statutory provision indicates that the six-month filing requirement for personal injury or property damage cases is a *modification* of the generally applicable one-year filing requirement. There is no indication from the language used that the provisions of subsection (1) do not apply to subsection (3), and the Legislature need not be overly repetitive in reasserting the requirements for notice in each subsection when the only substantive change effectuated in subsection (3) is a reduction in the timing requirement for specifically designated cases.

* * *

Moreover, the various subsections of MCL 600.6431 refer to each other. For example, subsection (3) employs the phrase “notice of intention to file a claim,” which is the same phrase that is used and defined in detail in subsection (1). Similarly, subsection (2) directly refers to subsection (1) by noting that “[s]uch claim or notice” as described in subsection (1) must designate the responsible governmental agency; this language clearly indicates that subsection (2) is an elaboration of the requirements stated in subsection (1). *Reading this statute as a whole, it is reasonably clear that these subsections are not independent entities that happen to be grouped together in the same statutory provision. Instead, they are related and interdependent, and thus cannot be read in isolation.* [*McCahan*, 492 Mich at 741-742 (emphasis added).]

The *McCahan* Court further clarified that MCL 600.6431 is to be “understood as a cohesive whole. Subsection (1) sets forth the general rule, for which subsection (2) sets forth additional requirements and which subsection (3) modifies for particular classes of cases that would otherwise fall under the provisions of subsection (1).” *McCahan*, 492 Mich at 742. Therefore, rejecting the plaintiff’s argument that she was not subject to the consequence of having her claim against the state barred in its entirety as set forth in subsection (1) of MCL 600.6431 where she did not comply with the dictates of subsection (3) of MCL 600.6431, the *McCahan* Court concluded, in pertinent part, as follows:

Accordingly, subsection (3) incorporates the consequence for noncompliance with its provisions expressly stated in subsection (1) and does not otherwise displace the specific requirements of subsection (1) other than the timing requirement for personal injury or property damage cases. Therefore, the failure to file a compliant claim or notice of intent to file a claim against the state within the relevant time periods designated in either subsection (1) or (3) will trigger the statute’s prohibition that “[n]o claim may be maintained against the state” [Id. at 742 (emphasis in original).]

Accordingly, on the basis of the Court’s directive in *McCahan* that MCL 600.6431 is to be read as a “cohesive whole[.]” it is reasonable to interpret the language in subsection (3), that a party must file “a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action[]” consistent with the language in subsection (1) requiring a claimant to file a claim, or written notice of intention to file a claim, “within 1 year after such claim *has accrued*.” MCL 600.6431(1), (3). MCL 600.5827, also part of the Revised Judicature Act (RJA), MCL 600.101 *et seq.*, provides in pertinent part, as follows with respect to the accrual of a cause of action:

Except as otherwise provided, the period of limitations runs from the time the claim accrues. The claim accrues at the time provided in [MCL 600.5829 to MCL 600.5838], and in cases not covered by these sections the claim accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results. [Emphasis added; footnote omitted.]²

Thus, it reasonably follows that plaintiffs’ cause of action accrued when the wrong on which they base their claims was done. MCL 600.6431(3); MCL 600.5827.

The thrust of plaintiffs’ claims in their 39-page first amended complaint are encapsulated in Count I of the first amended complaint, which alleges a violation of Const 1963, art I, § 17, which provides, in pertinent part, as follows:

² MCL 600.6452(2) provides that, “[e]xcept as modified by this section, the provisions of RJA chapter 58, relative to the limitation of actions, shall also be applicable to the limitation prescribed in this section.”

No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. . .

Count I of the first amended complaint provides, in pertinent part, as follows:

160. One essential requirement of due process is that claimants should be afforded the opportunity to be heard at a meaningful time and in a meaningful manner before being deprived of life, liberty or property.

* * *

162. Plaintiffs and the proposed Class Members have a property interest in unemployment benefits, tax refunds and wages that are garnished by the State without due process and fair and just treatment.

163. The State of Michigan's due process obligations to Plaintiffs and the Class Members include the obligation to follow the minimum due process standards required under federal law with respect to the collection of unemployment debts, including overpayment and penalties.

164. The State of Michigan's Unemployment Insurance Agency has violated and is continually violating the rights of Plaintiff[s] and the Class Members by improperly intercepting tax refunds, garnishing wages and forcing repayments from claimants:

- a. without providing the required notice of the bases asserted for disqualification.
- b. without providing at least 60 days for claimants to present evidence;
- c. without consideration of the factual basis or proof for or against the finding of culpable conduct;
- d. without a hearing;
- e. without providing claimants an opportunity to be heard at a meaningful time and in a meaningful manner; and
- f. By utilizing an automated decision-making system for the detection and determination of fraud cases, whereby the computer code in the automated decision-making process contains the rules that are used to determine a claimant's guilt, and those rules change the substantive standard for guilt or are otherwise inconsistent with the requirements of due process.
- g. By routinely and on a wholesale basis over-assessing penalties, charging interest on penalties and utilizing authorized collection methods to improperly collect penalties, the defendant has established a government policy

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which constitutes a violation of the due process and fair treatment provisions of the Michigan Constitution of 1963.

A review of the first amended complaint therefore demonstrates that plaintiffs are claiming that the wrong on which their claims are based took place when defendant intercepted federal and state tax refunds, garnished their wages and forced repayment of unemployment benefits. However, to the extent that plaintiffs are alleging a violation of Const 1963, art I, § 17, “[a] fundamental requirement of due process in [proceedings where the government seeks to take property from its owner] is “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and [to] afford them an opportunity to present their objections.” *Sidun v Wayne Co Treasurer*, 481 Mich 503, 509; 751 NW2d 453 (2008), quoting *Mullane v Central Hoover Bank & Trust Co*, 339 US 306, 314; 70 S Ct 652; 94 L Ed 865 (1950).³ Additionally, the United States Supreme Court has recognized that “[t]he fundamental requisite of due process of law is the opportunity to be heard.” *Mullane*, 339 US at 315, quoting *Grannis v Ordean*, 234 US 385, 394; 34 S Ct 779; 58 L Ed 1363 (1914). Accordingly, we disagree with plaintiffs’ argument that the events giving rise to their causes of action took place only when they encountered an “economic deprivation” arising from defendant’s interception of their federal and state tax returns and garnishment of their wages. Instead, in a constitutional claim alleging a deprivation of due process, “the [alleged] wrong upon which [plaintiffs’ claims are] based was done[.]” MCL 600.5827, when defendant issued notices informing plaintiffs of its determination that plaintiffs had engaged in fraudulent conduct, and they were not given the requisite notice and opportunity to be heard. *Mullane*, 339 US at 315; *Sidun*, 481 Mich at 509. The subsequent forfeiture of their monetary assets implicates the “damage result[ing]” from the wrongful conduct plaintiffs allege that they endured, MCL 600.5827, but in our view, cannot be said to meet the requirement of being “the event giving rise to the cause of action[.]” as set forth in MCL 600.6431(3), where MCL 600.6431(1) clearly specifies that the notice provisions of the statute apply “after such claim has accrued[.]” Therefore, to the extent that the trial court misconstrued the nature of plaintiffs’ due process claims, its conclusion that “plaintiffs could [only] fully allege the elements of their constitutional claim[]” once defendant determined that “plaintiffs had not committed fraud and were . . . eligible for benefits[]” was incorrect, and warrants reversal. Instead, put simply, plaintiffs’ causes of action accrued, as contemplated by MCL 600.6431(3), on the date that defendant notified them of their alleged fraudulent conduct, and the impact it would have on their unemployment benefits.

We note that this conclusion accords with the Michigan Supreme Court’s recent decision in *Frank v Linkner*, ___ Mich ___, ___; 894 NW2d 574 (2017) (Docket No. 151888). In *Frank*, the Michigan Supreme Court, quoting *Moll v Abbott Laboratories*, 444 Mich 1, 12; 506 NW2d 816 (1993), observed that “the date of the wrong referred to in MCL 600.5827 is ‘the date on which the defendant’s breach harmed the plaintiff, as opposed to the date on which defendant

³ US Const, Am V, which is applicable to Michigan by way of the Fourteenth Amendment, also provides, “nor shall any person . . . be deprived of life, liberty or property, without due process of law.” *Sidun*, 481 Mich at 509.

breached his duty.” *Frank*, ___ Mich at ___; slip op at 14. The *Frank* Court also stated that the “relevant ‘harms’” to be considered “are the actionable harms alleged in a plaintiff’s cause of action.” *Id.* The *Frank* Court also rejected the plaintiffs’ contention that “their claims did not accrue until they first incurred a calculable financial injury” *Id.*; slip op at 16. In its analysis, the *Frank* Court considered a case relied on by the trial court in this case, *Connelly v Paul Ruddy’s Equip Repair & Serv Co*, 388 Mich 146, 151; 200 NW2d 70 (1972), where in the context of a personal injury case resulting from an industrial accident, the Michigan Supreme Court held that “[i]n the case of an action for damages arising out of tortious injury to a person, the cause of action accrues when all of the elements of the cause of action have occurred and can be alleged in a proper complaint[.]” *Frank*, ___ Mich at ___; slip op at 16, quoting *Connelly*, 388 Mich at 150-151. Like the plaintiffs in this case, the plaintiffs in *Frank* argued that their causes of action did not accrue until monetary damages occurred. *Frank*, ___ Mich at ___; slip op at 16. The *Frank* Court held that the plaintiffs’ argument “conflates monetary damages with ‘harm[.]’” and further ruled, in pertinent part, as follows:

[w]hile the actionable harm in a claim for tortious injury to a person typically consists of some personal injury inflicted by another that is remedied by monetary damages, . . . the actionable harm for a member oppression claim under MCL 450.4515 consists of actions taken by the managers that “substantially interfere with the interests of the member as a member,” and monetary damages constitute just one of many potential remedies for that harm. . . . Accordingly, unlike an action for tortious injury to a person, an action for LLC member oppression does not necessarily accrue when a plaintiff incurs a calculable financial injury. Instead, it accrues when a plaintiff incurs the actionable harm under MCL 450.4515, i.e., when defendants’ actions allegedly interfered with the interests of a plaintiff as a member, making the plaintiff eligible to receive some form of relief under MCL 450.4515(1). [*Frank*, ___ Mich at ___; slip op at 16-17.]

Accordingly, while *Frank* involved a shareholder oppression action governed by MCL 450.4515, the reasoning the Michigan Supreme Court employed is instructive here. Specifically, the “actionable harm” in a due process challenge consists of the actions allegedly taken by defendant that deprived plaintiffs of their right to notice and an opportunity to be heard, and occurred on the date defendant issued notices informing plaintiffs of their alleged fraudulent conduct. Like the plaintiffs in *Frank*, plaintiffs in this case erroneously focus on the potential consequence of a due process violation, the taking of their property, rather than the hallmark of a due process claim, the right to notice and an opportunity to be heard. Thus, in our view, where the trial court did not properly consider when plaintiffs were harmed, instead placing its focus on its conclusion that whether plaintiffs were in fact found to have engaged in fraud “was an inherent element” of the theory of their claims, reversal of its decision is warranted.

The parties do not dispute that Bauserman’s notices of redetermination regarding his unemployment benefits were dated December 3, 2014. Likewise, Broe’s notices of determination advising him of his disqualification for unemployment benefits are dated July 15, 2014. Finally, Williams’s notice of determination/redetermination is dated June 22, 2012.

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Accordingly, where plaintiffs did not institute their action until September 9, 2015, their claims were not filed in compliance with MCL 600.6431(3), “within 6 months following the happening of the event giving rise to the cause of action.”⁴

Reversed and remanded for entry of an order granting summary disposition in favor of defendant. We do not retain jurisdiction. Defendant, as the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Michael F. Gadola
/s/ Patrick M. Meter
/s/ Karen M. Fort Hood

⁴ Where we have concluded that plaintiffs’ claims were not filed in compliance with MCL 600.6431(3), we decline to address defendant’s remaining issue on appeal concerning whether plaintiffs’ claims are barred on the basis of governmental immunity where plaintiffs alleged a “constitutional tort” against defendant.