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UNITED STATES DISTRICT COURT
DENVER, COLORADO
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JEFFREY P. COLWELL, CLERK



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| The United States District Court District of Colorado<br>901 19th St, Denver, CO 80294 \| (303) 844-3433<br>Plaintiff: Joshua Abrams<br>v.<br>Defendant(s): Division of Unemployment Insurance,<br>251 E 12th Ave Denver, CO 80203<br>[Joe Barela, Jeff Fitzgerald, John/Jane Doe(s) ] | ▲COURT USE ONLY▲ |
| Joshua Abrams, Pro Se \| abramslive@gmail.com \|609-968-9360<br>10722 N Parfet Street Westminster Colorado 80021 | Case Number:<br>1:24-cv-03390-RTG<br>Division: Courtroom |
| PLAINTIFF'S COMPLAINT | |

Plaintiff Joshua Abrams, a disabled and indigent individual representing himself pro se, respectfully brings this action under the Ex parte Young doctrine against the Colorado Department of Labor and Employment (CDLE) and its agents for implementing and enforcing unconstitutional policies and customs in the administration of unemployment benefits. Defendant's restrictive procedures, policies, and customs have deprived Plaintiff of his constitutionally protected property interest. Such deprivation violates his Fourteenth Amendment right to procedural due process and his First Amendment right to petition for redress.

Plaintiff further asserts that Defendant's systemic barriers, such as inaccessible and unreliable telephone and online communication channels, have left claimants without any viable means of securing relief. These barriers forced claimants to make in-person visits during a public health crisis, despite the known risks, which directly led to Plaintiff contracting COVID-19 and requiring hospitalization.These barriers also violate the accessibility standards mandated by Title

II of the Americans with Disabilities Act (ADA), which requires state and local governments to provide individuals with disabilities an equal opportunity to benefit from all their programs, services, and activities. This includes ensuring effective communication and making reasonable modifications to policies, practices. Defendant was fully aware of these risks and received federal and state funding to improve electronic access and ensure safe administrative practices; yet, Defendant failed to implement the necessary modifications. Instead, its policies remained focused on rigid performance metrics and procedural formalities that obstruct any meaningful review of erroneous benefit determinations.

The harm to Plaintiff is severe and far-reaching. Having aged out of foster care into homelessness, his economic survival remains fragile, and wrongful benefit calculations have only heightened his risk of homelessness, hunger, and medical neglect. Plaintiff's disabilities—including high-functioning autism, Oppositional Defiant Disorder, anxiety, and depression , exacerbate the psychological toll of navigating an adversarial system designed to misdirect and silence claimants. Beyond his individual case, Plaintiff's claims highlight a broader systemic failure that deprives countless others of the unemployment benefits intended as a critical economic safeguard under federal and state law. Accordingly, Plaintiff seeks injunctive, declaratory, and monetary relief to restore his rights, protect similarly situated individuals, and compel Defendant to reform its fundamentally flawed administrative practices.These practices, driven by deliberate indifference, have predictably and inevitably led to ongoing constitutional injuries. Despite clear awareness of the harm their policies inflict, policymakers have failed to take corrective action, allowing these violations to persist unchecked.

**VENUE :** Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to these claims occurred in the District of Colorado, where Defendant's principal place of business is located. The administrative actions, communications, and systemic failures complained of by Plaintiff transpired in this District, making it the appropriate forum for both the federal constitutional claims and the related state-law claims under supplemental jurisdiction. Furthermore, given that these claims implicate both federal statutory and self-executing provisions of the Colorado Constitution, their consolidation here promotes judicial economy and ensures uniform adjudication of the rights of all similarly situated claimants. As an indigent, disabled litigant without robust legal representation, Plaintiff submits that forcing him to segregate or refile his state-law claims into a separate action—as contemplated by *May v. Town of Mountain Village*, 132 F.3d 576 (10th Cir. 1996) this would impose an undue and duplicative burden on the Plaintiff's limited resources and would further deny timely relief.

Plaintiff acknowledges the Court's discretion in matters of federalism and respects its authority. However, Plaintiff urges the Court to consider the undue burden of splitting claims between federal and state courts. Parallel text does not guarantee parallel interpretation, and state courts—often less equipped to apply constitutional law—may struggle with the complexities of these claims. As a self-represented litigant without the resources of a law firm, Plaintiff faces systemic bias, heightened scrutiny, and procedural barriers that would further exhaust his ability to seek justice. Requiring separate litigation would impose an unnecessary and inequitable hardship. Plaintiff humbly acknowledges the Court's discretion and will make every effort to comply if required.

**PARTIES**

1. Plaintiff : **Joshua Abrams**, is a resident of Colorado. Plaintiff is a disabled and indigent, self represented party, who has suffered harm as a result of the unconstitutional policies.

2. Defendants : The Defendant(s) below are being sued in their individual or personal capacities pursuant to the Ex parte Young doctrine, as well as other applicable doctrines, for their roles in formulating, implementing, and enforcing the policies that have deprived Plaintiff of his constitutional rights.

**A. Executives and Officials :** These individuals are the principal decision makers responsible for establishing and overseeing the administrative policies at issue as the primary defendants.

-Defendant **Joe Barela**, in his official capacity as Executive Director of the Colorado Department of Labor and Employment (CDLE), is responsible for the overall oversight of the unemployment benefits program, including the policies affecting the appeals process.

-Defendant **Jeff Fitzgerald**, in his official capacity as Division Director responsible for policy implementation for unemployment benefits at CDLE, is charged with implementing the policies that restrict a meaningful appellate review.

**B. Supervisors, Managers, and Policy Implementers:** These individuals John Doe(s) exercise supervisory and managerial authority over the day-to-day administration of the appeals process and are responsible for enforcing the policies that have unlawfully limited claimants' rights. As well as any additional executive-level employees who played a role in establishing restrictive policies. This includes phone representatives whose training prioritized call volume clearance over claimant assistance, leading to deliberate disconnections, misinformation, and obstruction. Managers, supervisors, and executives responsible. Individuals overseeing COVID-19 safety measures and in-person procedures contributed to ongoing violations by failing to provide reasonable accommodations or remote access. These John and Jane Doe defendants will be identified through litigation and discovery as necessary beyond the primary policymakers.

**FACTUAL BACKGROUND**

On March 7, 2023, Plaintiff applied for unemployment benefits through the Colorado Department of Labor and Employment (CDLE) after losing his job in Colorado. As a worker with wages earned in multiple states, Plaintiff was eligible for a Combined Wage Claim (CWC) under 20 C.F.R. § 616.7, which mandates that wages from all qualifying states be aggregated to determine benefit eligibility and the correct payment amount. However, when CDLE processed his claim, it erroneously excluded all wages earned in North Carolina, resulting in a drastically reduced weekly benefit determination of only $119, as outlined in the Notice of Determination issued on April 5, 2023.

Recognizing the clear miscalculation, Plaintiff immediately sought correction. On March 27, 2023, he submitted a Wage Correction Letter, providing clear documentation—including W-2s, pay stubs, and legal citations—proving that his North Carolina wages were visible within CDLE's system and should have been counted under federal law. Despite this, CDLE neither corrected the issue nor conducted a substantive review. Instead, CDLE representatives dismissed his requests with legally baseless justifications, falsely asserting that the excluded wages were either unreported by his employer or ineligible due to "double-dipping" restrictions—a gross misinterpretation of federal unemployment regulations that Plaintiff later disproved through extensive legal research.

With no resolution, Plaintiff escalated his efforts to engage CDLE, making over 100 calls to its helpline, only to encounter systemic obstruction, misinformation, and deliberate misdirection. Calls were frequently disconnected by AI-driven filters or answered in silence before being abruptly terminated, allowing CDLE to falsely classify the calls as "dropped" or "unresponsive".

Representatives refused to provide identifying information or record of the conversations, making any follow-up impossible. On several occasions, agents provided contradictory explanations, falsely assuring Plaintiff that his issue was "being processed," only for him to later discover that no corrective action had ever been initiated. When he demanded clarification, he was routinely misdirected—told to submit redundant documents, resubmit forms already on file, or withdraw his claim and reapply rather than simply correct the existing miscalculation.

Frustrated by the failure of the phone system, Plaintiff resorted to faxing critical documentation in an attempt to force CDLE to acknowledge his claim. Over the course of several months, he sent multiple fax submissions from public libraries, including on March 10, March 21, March 24, April 10, April 13, and June 13, 2023. Despite incurring additional costs and enduring significant health risks by using public facilities during the COVID-19 pandemic, his faxes were either ignored, lost, or dismissed without review. Further compounding the issue, CDLE failed to provide a standardized, working fax number, instead issuing conflicting instructions and outdated forms with non-functional return fax numbers, deliberately ensuring that critical documents were sent to dead ends. This obstructive practice set claimants up for procedural denials, allowing CDLE to later claim that required paperwork had never been received.

With no ability to resolve the issue through phone, fax, or the online claimant portal—which lacked any interactive communication options—Plaintiff attempted to resolve the matter in person. Upon learning that CDLE did not offer in-person appointments, he made multiple walk-in visits to CDLE offices, only to face yet another series of obstacles. On each occasion, Plaintiff was forced to wait for hours in overcrowded lobbies with no COVID-19 precautions in place, use shared telephones in small, enclosed spaces with no sanitation protocols, and interact with staff who refused to provide assistance. Instead of allowing Plaintiff to meet with a decision-maker or review his case, CDLE personnel merely directed him back to the same defective phone system he had already exhausted.

During one in-person visit on April 2, 2023, a CDLE supervisor printed out an internal wage determination revealing that Plaintiff's weekly benefit amount should have been significantly higher—$254 per week instead of $119—had his North Carolina wages been properly counted. Despite this clear confirmation that CDLE had miscalculated his benefits, no correction was made. The refusal to take corrective action, even when confronted with its own internal records proving the error, is a glaring example of deliberate indifference.

Unable to secure an administrative resolution, Plaintiff filed formal appeals on March 24, 2023, and April 10, 2023. However, CDLE's appeal system was deliberately structured to prevent claimants from challenging miscalculations, backpay denials, or wage exclusions. Instead of allowing an appeal based on substantive errors, CDLE's system limited appeal options to predetermined categories, forcing Plaintiff to select "withdraw application" as his only available choice—despite never intending to withdraw his claim. Even after explicitly stating in his appeal submission that he sought to correct the miscalculation, not withdraw his claim, CDLE's administrative magistrate refused to review the issue, dismissing the appeal entirely on procedural grounds. In its May 24, 2023, ruling, the magistrate cited Plaintiff's failure to submit the appeal within the 14-day window—a deadline that was practically impossible to meet due to CDLE's reliance on delayed mail notifications, which often left claimants with as little as seven days to appeal. This ruling denied Plaintiff any meaningful opportunity to contest the wrongful exclusion of his wages, effectively barring him from obtaining a fair review of his benefits determination.

After exhausting every possible administrative avenue, Plaintiff formally notified the Colorado Attorney General's Liability Office on November 3, 2023, documenting CDLE's pattern of obstruction, misapplication of federal law, and procedural denial of benefits. The certified complaint was received on November 9, 2023, yet no remedial action was taken, reinforcing Defendant's deliberate indifference to both Plaintiff's rights and the broader systemic failures within its unemployment benefits administration.

As a direct result of CDLE's refusal to correct its own admitted errors, Plaintiff suffered severe financial, emotional, and physical harm. The failure to provide him with the correct benefit amount exacerbated his economic instability, putting him at risk of homelessness, hunger, and medical neglect. The systemic obstruction he faced caused extreme mental distress, anxiety, and physical exhaustion, requiring him to spend countless hours navigating an administrative maze designed to frustrate claimants into abandoning their claims. The forced in-person visits, which were entirely unnecessary had CDLE simply provided a functioning remote resolution system, exposed him to life-threatening health risks. Plaintiff ultimately contracted COVID-19, suffering severe complications, loss of consciousness, and hospitalization, further worsening his already precarious financial and physical condition.

Despite his persistent good-faith efforts, Plaintiff was repeatedly denied his right to due process, blocked at every turn by arbitrary procedural barriers, misinformation, and deliberate administrative negligence. His case is not merely an individual grievance but a reflection of broader systemic failures, where policymakers knowingly maintain a broken system that deprives claimants of the unemployment benefits they are legally entitled to. The evidence overwhelmingly demonstrates that CDLE not only failed to administer benefits lawfully but actively obstructed Plaintiff's ability to challenge its wrongful determination.

Plaintiff now seeks judicial intervention to correct these constitutional and statutory violations, restore his rightful benefits, and compel systemic reforms to prevent ongoing harm to other claimants facing similar injustices.

**Institutional Custom, Policies, and Administrative Failures**

Plaintiff asserts that Defendant's administration of unemployment claims is not the result of isolated errors but rather a deeply entrenched institutional custom and policy that systematically deprives claimants of their constitutional and statutory rights. Publicly available documents, including Defendant's 2020 Unemployment Performance Plan and emergency orders, establish that CDLE was fully aware of systemic deficiencies yet deliberately maintained policies and practices that obstruct claimants' ability to obtain meaningful review.

Rather than addressing these failures, Defendant has prioritized administrative efficiencies and statistical performance over its fundamental obligations to ensure due process, protect access to justice, and uphold basic safety and accommodation standards—particularly during the COVID-19 pandemic. Despite clear knowledge of the risks, Defendant failed to implement accessible, safe, and effective alternatives for claimants with disabilities, forcing individuals into unsafe in-person interactions that violated public health protocols. These failures exacerbated barriers for vulnerable populations, including disabled and indigent claimants who relied on unemployment benefits as a necessary economic safeguard.

Defendant's continued refusal to reform these known deficiencies—despite documented evidence of their harmful consequences—constitutes deliberate indifference and reckless disregard for claimants' First and Fourteenth Amendment rights, as well as violations of statutory protections under the Americans with Disabilities Act and state public health and accessibility laws. This systemic misconduct has not only obstructed Plaintiff's ability to obtain a fair review but has also subjected him to unreasonable health risks, procedural dead-ends, and economic deprivation, further compounding the harm caused by Defendant's unconstitutional policies.

**(1)Defendant's 2020 Unemployment Performance Plan**

*Page 7:* Acknowledges that the Appeals Branch is limited to procedural review only and does not commit to addressing substantive errors.*Page 12:* Admits significant failures in claimant communication, citing unreliable telephone and online systems. *Page 19:* Documents known miscalculations in aggregating out-of-state wages (Combined Wage Claims).

**(2)Congressional Emergency COVID-19 Orders (e.g., 116th Congress 2nd Session S 3548):**

**(3)Emergency Order Effective April 14, 2020 (CRS §§ 8-72-102; 24-4-103)**

**Legal Framework Supporting Relief Under Ex Parte Young**

Defendant's policies, practices, and administrative actions exceed the bounds of state jurisdiction, infringing upon constitutional protections guaranteed under the First, Fourteenth, and Ninth Amendments. These systemic deficiencies, implemented and enforced by Defendant's policymakers, obstruct claimants' ability to seek redress, challenge miscalculated benefits, and secure meaningful review. These failures violate the fundamental rights to due process, equal protection, and access to government processes.

These unconstitutional practices are further exacerbated by Defendant's disregard for statutory obligations under Colorado law. Specifically:

- **CRS 24-4-104, § 24-4-103, and § 24-4-106 (Colorado Administrative Procedures Act)**: These statutes regulate agency rulemaking, public participation, and judicial review. Defendant's failure to provide notice or meaningful public input renders its administrative practices arbitrary and capricious.

- **CRS 8-74-104 (Industrial Claim Appeals Office Review)**: Grants discretionary authority over appeals but has been misused to limit appeals to withdrawal-only remedies, violating the Fourteenth Amendment and the First Amendment.
- **CRS 8-74-106 (Appeals – Time Limits – Procedures)**: Imposes procedural limits that, when applied to obstruct substantive review, violate due process.
- **CRS 8-74-108 (Conclusiveness of Determinations and Decisions)**: Allows erroneous benefit determinations to stand unchallenged, denying claimants meaningful hearings.
- **CRS 8-72-110 (Reciprocal Interstate Agreements)**: Governs the inclusion of out-of-state wages. Defendant's failure to implement these provisions accurately led to undercalculation of Plaintiff's benefits.
- **CRS 8-72-102 (Director's Rulemaking Powers)**: Grants CDLE authority to regulate appeals. When used to obstruct claimant rights without notice, it violates procedural and substantive due process.

These statutory and constitutional violations, collectively, highlight a deliberate policy of obstruction rather than mere administrative inefficiency. Defendant's entrenched practices reflect a pattern of systemic indifference that cannot be excused by isolated errors. Plaintiff has met the criteria for municipal liability under Monell (1978), by linking Defendant's administrative directives, internal reports, and institutional practices to ongoing constitutional deprivations. These failures are not incidental but are the predictable result of deliberate policy choices.

Furthermore, Ex Parte Young (1908), applies because Plaintiff seeks prospective relief against ongoing unconstitutional practices. Defendant's actions continue to obstruct access to due process and economic stability, creating real and immediate threats of further injury to Plaintiff and similarly situated claimants. Federal courts retain the authority to intervene where state policies violate federally protected rights, particularly when such policies cause continuing harm. Judicial intervention is not only appropriate but necessary to compel compliance with constitutional and statutory mandates, prevent further violations, and ensure that Defendant fulfills its duty to administer unemployment benefits fairly, safely, and equitably.

Plaintiff has compiled numerous records, including application submissions, wage correction requests, appeals, fax confirmations, and in-person visit documentation, demonstrating his repeated efforts to address miscalculated benefits. These documents are preserved and ready to be presented in support of Plaintiff's claims during discovery, disclosure, and relevant motions.

**COUNT I Violation of the 1st Amendment Right to Petition (42 U.S.C. § 1983)**

Defendant's conduct directly interfered with Plaintiff's right to petition the government for redress by creating insurmountable barriers to a fair review of his claim. *Borough of Duryea v. Guarnieri*, 564 U.S. 379 (2011), establishes that citizens cannot be arbitrarily blocked from accessing mechanisms designed for grievance resolution. Defendant's actions, including AI-driven call filtering that prematurely disconnected calls, refusal to document or acknowledge prior communications, and reliance on a non-functional claimant portal, effectively foreclosed any meaningful ability to seek redress. The system was designed to exhaust claimants into abandoning their claims rather than providing a legitimate pathway for resolution. Officials who maintained and enforced these practices knew or should have known that they created unconstitutional barriers to the exercise of a fundamental First Amendment right, stripping them of any immunity defense.

The First Amendment guarantees that "Congress shall make no law … abridging … the right of the people to petition the Government for a redress of grievances." This core constitutional protection is essential not only for challenging overt governmental policies but also for ensuring that individuals may submit communications and appeals on any matter affecting their protected property interests—including the accurate calculation of unemployment benefits. See *NAACP v. Alabama*, 357 U.S. 449 (1958). A robust, unfettered right to petition requires that claimants be afforded a full, meaningful opportunity to challenge adverse administrative determinations on any relevant issue.

Defendant's administrative framework severely restricts this fundamental right by confining appeals to a limited, predetermined set of outcomes. Rather than permitting a comprehensive review of every issue that affects a claimant's rights and property—in particular, the miscalculation of benefits due to the arbitrary exclusion of out-of-state wages—Defendant's process permits only one narrow remedy: the withdrawal of one's claim. This contrived mechanism does not allow claimants to present the full scope of factual evidence or to contest the underlying errors, thereby effectively neutralizing their constitutional right to petition for redress.

In addition to funneling claimants into deficient appeals and communications method, Defendant's practices further impede effective petitioning by creating pervasive communication barriers:

- **Repeated Call Center Failures:** Plaintiff's documented call logs show that Defendant's telephone operators systematically disconnected calls, often abruptly and without adequate explanation, thereby denying claimants any opportunity to engage meaningfully with the appeals process.
- **Unreasonable Burdens on Alternative Methods:** Claimants have been forced to submit supporting documents via fax or mail at significant personal expense—costs that are disproportionate for indigent individuals and that further limit their ability to petition. These alternative channels are unreliable, as evidenced by repeated failures to receive confirmation or any verifiable record of submissions.

- **Lack of Accessible Digital Communication:** Defendant has not provided a functional online platform or other electronic means that would allow claimants to submit queries or dispute erroneous benefit determinations in a timely manner. This failure is particularly harmful to disabled individuals, who depend on clear, accessible communication channels to effectively exercise their rights.

These communication obstacles, which are corroborated by internal performance reports and publicly available administrative documents (see Exhibit references), constitute an additional, deliberate barrier to the right to petition. They demonstrate that Defendant's practices are not merely a matter of administrative inefficiency, but rather a systematic strategy to obstruct claimants from seeking a full and fair review of adverse benefit determinations.

Defendant's reliance on statutory provisions—such as CRS §§ 8-74-106, 8-74-104, 8-74-108, and 8-74-107—to justify this narrow, predetermined appeal process fails to satisfy constitutional standards. In *Matal v. Tam*, 137 S. Ct. 1744 (2017), the Court held that governmental policies that effectively suppress petitioning rights must be subject to heightened scrutiny. Here, Defendant's practices limit claimants to a withdrawal option that effectively precludes any meaningful challenge to the underlying errors in benefits calculation. Such a practice not only contravenes the First Amendment but also undermines the procedural due process guarantees of the Fourteenth Amendment, as a full and open review is necessary to protect a claimant's property interest in unemployment benefits (*Goldberg v. Kelly*, 397 U.S. 254 (1970)). Plaintiff was funneled into a procedural dead-end, denied reasonable avenues for appeal, and subjected to deliberate misdirection and obstruction, which violated his right to petition government agencies effectively.

**COUNT II Violation of the 14th Amendment Right to Due Process (42 U.S.C. § 1983)**

Defendant's policies and procedures deprived Plaintiff of his constitutional right to due process by systematically obstructing any meaningful opportunity to challenge the miscalculation of his benefits. *Goldberg v. Kelly*, 397 U.S. 254 (1970), and *Mathews v. Eldridge*, 424 U.S. 319 (1976), establish that when a state grants a property interest, such as unemployment benefits, it must provide fair procedures before depriving a claimant of those benefits. Defendant's process funneled claimants into procedural dead ends, limited appeal options to withdrawal rather than substantive correction, and failed to provide a system for reviewing miscalculations, all of which directly violate these precedents. The absence of a functioning review mechanism, combined with the lack of reasonable access to a decision-maker, left Plaintiff entirely without recourse. Officials knew or should have known that systematically blocking substantive challenges to benefit determinations constituted an unconstitutional deprivation of property, making them ineligible for qualified immunity.

Unemployment benefits, once lawfully determined, constitute a protected property interest under the Due Process Clause of the Fourteenth Amendment, as established in *Goldberg v. Kelly*, 397 U.S. 254 (1970). Plaintiff's entitlement to benefits—calculated by aggregating all qualifying wages under the Combined Wage Claim ("CWC") system—is a legitimate expectation that is grounded in both federal and state law. In this instance, Defendant arbitrarily excluded Plaintiff's North Carolina wages from his benefits calculation, thereby reducing his weekly benefit to an amount grossly insufficient to meet basic subsistence needs. This miscalculation, which effectively denies Plaintiff the full measure of benefits to which he is lawfully entitled, represents a clear deprivation of his protected property interest. The deprivation is especially egregious given that Plaintiff's out-of-state wages were clearly recorded and readily verifiable in his claimant profile, yet were wrongfully disregarded by Defendant's administrative process.

Defendant's administrative framework, by design, limits claimants to a singular, narrow remedy—namely, the forced withdrawal of their claims—thus preventing any substantive review of an erroneous benefits determination. Despite Plaintiff's diligent submission of multiple wage correction forms and repeated efforts to secure a meaningful administrative hearing via telephone, online portals, fax communications, and in-person visits, Defendant's process confined his recourse solely to the option of withdrawing his claim. Such an approach is fundamentally at odds with the procedural due process requirement that a claimant be provided with an effective mechanism to contest and correct an adverse determination. As elucidated in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the state must not only provide notice of an error but must also afford a meaningful opportunity for the affected party to be heard prior to depriving him of a protected interest. Defendant's refusal to allow a substantive review of Plaintiff's wage data thereby deprives him of the opportunity to present evidence in support of his full wage history and to secure a just recalculation of his benefits.

The rigid procedural remedy imposed by Defendant is undergirded by statutory provisions, including CRS §§ 8-74-106, 8-74-104, 8-74-108, and 8-74-107, which collectively transform the appeals process into a mechanism that serves merely as an administrative formality. Rather than allowing claimants to challenge and correct errors in a robust, fact-finding forum, Defendant's system restricts review to a predetermined and limited inquiry as to whether a claim should be withdrawn. This limitation is arbitrary and capricious and results in a de facto bar to any substantive challenge. Defendant's administrative process, as applied in this case, prevents Plaintiff from presenting the full array of evidence that would establish that his full wage history was not properly considered. Consequently, Plaintiff is left without a genuine opportunity to correct the underlying error, leading to severe economic harm and emotional distress.

Plaintiff was systematically obstructed from meaningful review, making the appeals process a sham. Under *Goldberg v. Kelly*, 397 U.S. 254 (1970), and *Mathews v. Eldridge*, 424 U.S. 319 (1976), when essential economic benefits are denied without a fair process, it constitutes a due process violation. CDLE's "withdrawal-only" and obstructive process effectively denied Plaintiff any substantive review, making it unconstitutional.

**COUNT III Violation of the Americans with Disabilities Act (42 U.S.C. §§ 12131–12134)**

Defendant's refusal to provide reasonable accommodations for disabled claimants violated Title II of the ADA, which requires public entities to ensure equal access to government services. *Tennessee v. Lane*, 541 U.S. 509 (2004), affirms that Title II mandates that individuals with disabilities receive meaningful access to public services and that failure to accommodate them constitutes unlawful discrimination. Here, Defendant's failure to implement an accessible, reliable remote communication system, combined with its refusal to accommodate Plaintiff's disability by forcing him into unsafe in-person visits, directly contravenes ADA requirements. Defendant had the funding and capacity to implement remote accessibility options but willfully refused to do so, despite clear regulatory mandates. Because the ADA's requirements are well-established, officials' deliberate failure to accommodate Plaintiff removes any plausible claim to qualified immunity.

Under the Americans with Disabilities Act (ADA), public entities are required to ensure that qualified individuals with disabilities have full and equal access to the services, programs, and activities they provide. As a person with autism and related mental health conditions, Plaintiff is entitled to effective communication and reasonable modifications that enable him to participate fully in the unemployment benefits process. The ADA specifically title 2 mandates that government agencies implement accessible methods of communication and adopt reasonable accommodations to prevent discrimination. See 42 U.S.C. §§ 12131–12134; see also *Tennessee v. Lane*, 541 U.S. 509 (2004). Defendant's statutory and regulatory obligations require that its administrative procedures be designed to accommodate the needs of disabled claimants, ensuring that such individuals are not subjected to undue burdens when accessing critical public services.

Despite these clear obligations, Defendant's reliance on outdated telephone systems and AI-driven call filters has severely limited the range of issues that claimants may raise. In Plaintiff's case, these systems effectively precluded him from challenging the exclusion of his out-of-state wages—an error that was otherwise clearly documented in his claimant records. Moreover, the absence of viable remote alternatives forced Plaintiff to pursue in-person recourse during the COVID-19 pandemic. Such in-person interactions occurred in crowded, poorly ventilated environments where shared telephones were not properly sanitized, thereby exposing Plaintiff to an elevated risk of contracting the virus. This failure to implement reasonable accommodations, despite Defendant's awareness of these systemic deficiencies—as evidenced by its own internal performance plans—demonstrates a blatant disregard for the ADA's mandate to secure equal access and nondiscriminatory treatment for individuals with disabilities.

As a direct consequence of Defendant's failure to provide effective accommodations, Plaintiff contracted COVID-19 and subsequently suffered severe respiratory complications that necessitated hospitalization. These physical harms were compounded by significant emotional distress and economic instability, as Plaintiff was forced to repeatedly navigate an obstructed administrative process without the benefit of clear, accessible communication. Defendant's failures in addressing these critical issues not only violates the ADA's core purpose but also undermines the statutory right of disabled claimants to participate fully in government programs.

Defendant's failure to provide accessible and safe alternatives was not merely negligent but predictable and reckless, given the available federal and state funding allocated for emergency modernization and accessibility improvements. Internal performance plans and public health mandates explicitly recognized the need for remote access, enhanced claimant services, and safe alternatives to in-person visits. By failing to implement these measures—despite both the financial resources and direct knowledge of the risks—Defendant exhibited deliberate indifference to the constitutional, statutory, and public health rights of claimants, particularly those with disabilities.

Plaintiff was entirely excluded from meaningful participation due to CDLE's unworkable processes, forcing unsafe in-person visits as the only available means to address critical errors in his unemployment benefits. ADA violations occur when an agency fails to make reasonable modifications necessary for equal access, and here, Defendant's refusal to adapt its processes directly resulted in the complete exclusion of disabled claimants from safe and effective participation. This systemic failure was foreseeable and avoidable, as Defendant had both the financial resources and legal obligation to ensure accessible alternatives but instead chose efficiency and cost-cutting over fundamental rights. The harm Plaintiff suffered was not incidental but a direct result of Defendant's inaction, despite clear evidence of the risks and obligations imposed by law.

**COUNT V – Violation of the 10th Amendment: State Overreach (42 U.S.C. § 1983)**

The Tenth Amendment reserves to the states, or to the people, those powers not delegated to the federal government. While state governments have authority over unemployment benefits, this power must be exercised in accordance with constitutional protections and cannot be used as a shield for administrative misconduct. Defendant's misuse of statutory discretion, particularly in applying CRS §§ 8-74-106, 8-74-104, 8-74-108, and 8-74-107, transforms what should be a fair and remedial administrative process into a tool for arbitrary denials, procedural dead-ends, and the suppression of claimants' rights.

By failing to implement a transparent and meaningful review system, Defendant has abused state authority in a way that violates federally protected rights, including due process, the right to petition, and equal protection under the law. The Tenth Amendment does not grant states the power to administer programs in a manner that directly contradicts fundamental constitutional guarantees. Here, Defendant's actions have effectively stripped claimants of the ability to seek redress for unlawful benefit denials, forcing them into an unconstitutional procedural trap that forecloses any substantive resolution. This violation demands judicial intervention to ensure that state administrative power is exercised in a manner consistent with constitutional principles and fundamental fairness.

**COUNT IV: Violation of Unenumerated Rights (Ninth Amendment)**

Plaintiff asserts that the Ninth Amendment guarantees that the enumeration of certain rights in the Constitution shall not be construed to deny or disparage other rights retained by the people. Plaintiff identifies 5 separate rights that are inherent and essential for dignity, economic security, and fair access to governmental processes. Among the unenumerated rights Plaintiff believes were violated are the (1)right to economic stability when entitled under established programs such as unemployment insurance, the (2)right to safe and accessible communication channels that do not require undue personal sacrifice, and the (3)right to reasonable access to appeals and grievance processes for redress of government errors. These rights are fundamental to ensuring individuals can engage with their government without suffering undue hardship, financial burden, or risk to health and safety.

Plaintiff's specific grievances highlight a systemic failure to honor these inherent rights. Defendant forced claimants to rely on antiquated, unreliable methods of communication such as fax and mail—rather than implementing functional and accessible digital portals. This compelled claimants to incur out-of-pocket expenses to mail documents, often requiring additional costs for tracking to prevent documents from being "lost in the mail." Additionally, Defendant's failure to modernize its communication systems left Plaintiff and other claimants waiting on hold for hours, only to face disconnected calls, misleading guidance, or unhelpful representatives. Forcing claimants to take public transportation, at their own expense, to submit documents or attempt in-person resolutions during a pandemic posed clear health risks and violated the right to safe communication processes that should be available in a modern digital age.

Defendant's administrative framework effectively denied Plaintiff access to meaningful appeals or processes to address government errors. By imposing restrictive procedural windows, such as a two-week appeal period, without accounting for delays in mail delivery, holidays, or busy phone lines, Defendant unfairly limited Plaintiff's ability to seek redress. These constraints placed an unreasonable burden on Plaintiff to constantly drop everything and expend significant effort to ensure compliance with deadlines, rather than focusing on searching for employment or recovering from the economic instability caused by Defendant's errors. This systemic obstruction violated Plaintiff's (4)right to engage with the government in accessible and reasonable ways, a right necessary to preserve due process and fairness.

Defendant's actions also violated the inherent (5)right to health and safety during administrative processes. By failing to provide safe, remote alternatives, Defendant forced Plaintiff into unsafe in-person visits during a pandemic, exposing him to COVID-19 and causing severe health consequences. These failures underscore Defendant's reckless disregard for claimants' well-being and its refusal to address known risks, even when federal funding and emergency orders explicitly called for modernization and accommodation. Plaintiff contends that these systemic failures, which undermine economic security, personal dignity, and procedural fairness, violate the unenumerated rights protected by the Ninth Amendment and demand judicial scrutiny to ensure these fundamental protections are upheld.

These unenumerated rights are recognized not only by federal jurisprudence but also by state constitutional principles, such as Colorado Constitution Article II, Sections 3 and 28, which affirm the inherent and inalienable rights of individuals to seek and obtain safety, happiness, and equality before the law. Congress and state lawmakers have long underscored the critical purpose of unemployment benefits as a vital economic lifeline, as explicitly highlighted in Congressional directives such as S. 3548 (the CARES Act), Colorado Revised Statutes Title 8 (Unemployment Insurance Act), and related emergency orders issued during the COVID-19 pandemic.

Defendant's conduct—specifically, the arbitrary exclusion of Plaintiff's out-of-state wages from the Combined Wage Claim calculation and the imposition of an appeal process that permits only a predetermined, withdrawal-only remedy—strikes at the core of these unenumerated rights. By restricting claimants to a narrowly defined procedural option, Defendant effectively denies them a meaningful opportunity to challenge erroneous benefit determinations, in direct violation of federal mandates under 20 C.F.R. § 616.7 and Colorado's constitutional commitment to due process and fairness in governance. These failures not only undermine economic stability but also contradict the legislative intent behind unemployment programs, which aim to secure financial stability for vulnerable populations and prevent systemic harm to individuals and communities.

**COUNT VI – Negligence**

Plaintiff asserts that Defendant's negligent mismanagement of the unemployment system directly caused economic, procedural, and health-related harm, violating state law obligations and constitutional due process rights. As a state agency tasked with administering unemployment benefits, Defendant owed a duty of reasonable care to ensure that its systems and processes were accurate, accessible, and did not expose claimants to foreseeable harm. Defendant breached this duty through systemic failures, including miscalculating Plaintiff's benefits, obstructing meaningful appeals, maintaining ineffective communication systems, and requiring unsafe in-person attendance during the COVID-19 pandemic.

Defendant's negligence created foreseeable risks that were ignored despite awareness through internal reports, public health mandates, and federal funding explicitly allocated for modernization and accessibility improvements. Defendant failed to implement even basic safety measures—such as sanitized equipment, remote alternatives, and communication channels that ensured fair access—despite the clear dangers posed by its outdated and obstructive practices.

These failures forced Plaintiff into hazardous in-person visits, resulting in severe physical harm, including contracting COVID-19 and suffering lasting complications.

Additionally, Defendant's failure to accurately aggregate Plaintiff's wages under the Combined Wage Claim system caused direct financial harm by reducing his benefits to $119 per week, far below the amount to which he was entitled. Defendant's appeals process compounded this harm by obstructing Plaintiff's ability to challenge these errors, relying on a withdrawal-only remedy that effectively denied any substantive review. Defendant's outdated communication systems—featuring disconnected calls, obstructive AI-driven systems, and unreliable fax/mail submissions—further prevented Plaintiff from obtaining relief.

These failures were not isolated errors but part of a longstanding pattern of administrative dysfunction. Defendant's reckless disregard for health, safety, and economic stability directly resulted in Plaintiff's financial hardship, denial of due process, and severe health consequences. Defendant's conduct—including failing to adapt systems to comply with public health and accessibility standards—demonstrates deliberate indifference, rendering any claim to immunity inapplicable. Judicial intervention is necessary to ensure compliance with constitutional protections, compensate Plaintiff for his losses, and prevent further harm to claimants subjected to the same systemic failures.

**COUNT VII Intentional and/or Negligent Infliction of Emotional Distress**

In addition to the constitutional violations and statutory failures outlined in the above Counts including the obstruction of due process, wrongful denial of benefits, and failure to accommodate Plaintiff's disabilities. Defendant knowingly maintained a defective administrative process, forced Plaintiff into unnecessary and harmful in-person visits, and systematically obstructed all avenues of redress despite clear evidence of benefit miscalculations. These actions were extreme, outrageous, and carried out in reckless disregard of Plaintiff's well-being.

As a direct and foreseeable consequence of Defendant's conduct, Plaintiff suffered severe emotional distress, anxiety, and financial devastation, which were further compounded by his pre-existing disabilities and economic vulnerability. Defendant's willful indifference to the harm caused by its policies warrants liability.

Defendant's actions reveal a calculated prioritization of its own convenience and internal metrics over justice,fairness, state or federal rights. By focusing on clearing phone queues and manipulating performance statistics, rather than resolving legitimate claims, Defendant knowingly frustrated and disenfranchised claimants contributing and compounding despair, and deprivation of economic stability enshrined by congress and the constitution. Vulnerable individuals, including Plaintiff, were subjected to outright lies, false assurances of hope and restitution, and deceptive tactics designed to pacify them long enough to disconnect or abandon their claims deliberately and maliciously. This systemic pattern of misleading guidance, inconsistent responses, and deliberate dead-ends was not merely inefficient; it was a calculated strategy that humiliated and disenfranchised claimants while undermining their fundamental rights.

Defendant's policymakers, executives, supervisors, and employees were fully aware of the harm their broken systems and deliberate policies were causing, as evidenced by internal performance plans, emergency health orders, and reliance on flawed AI systems. This was not an isolated mistake but a systemic failure that disproportionately harmed the disabled and indigent—those Defendant was obligated to protect. From front-line call center representatives to executive decision-makers, the entire structure knowingly deprived claimants of due process, denied corrections, and blocked petitions, showing reckless disregard for state and federal rights and the economic stability of those they served.

The breadth and severity of harm suffered by Plaintiff—including physical, emotional, financial, and constitutional injuries—demonstrate that this was not just negligence. It was malice, institutional indifference, and a willful disregard for the law and the humanity of those Defendant was obligated to protect. Defendant's entrenched pattern of obstruction and disregard for human dignity demands accountability for the extensive harm caused.

**COUNT VIII Violation of the Colorado Administrative Procedures Act (APA)**

Arbitrary and Capricious Agency Action. Defendant is statutorily required to adhere to the procedural mandates set forth in the Colorado Administrative Procedures Act, including CRS § 24-4-106, which authorizes judicial review and reversal of any agency decision that is arbitrary, capricious, contrary to law, or an abuse of discretion. In the instant case, Defendant's actions in designing and implementing its unemployment benefits appeals process were not merely erroneous but demonstrably arbitrary and capricious.

Defendant created an appeal process that effectively foreclosed any opportunity for claimants to engage in a substantive review of their wage miscalculation claims. Instead of providing a meaningful mechanism to challenge the wrongful exclusion of Plaintiff's out-of-state wages, Defendant's process offered only a procedural remedy—mandating that claimants withdraw their claims. This rigid limitation is patently arbitrary because it disregards the core purpose of the appeals process: to ensure that every error affecting a claimant's protected property interest is subject to a fair, thorough review. The approach taken by Defendant is in direct violation of CRS § 24-4-106, as it deprives claimants of the necessary judicial recourse to correct agency errors.

Despite its clear legal obligations to accurately administer Combined Wage Claims (CWC), Defendant has repeatedly failed to follow its own established policies and procedures. The erroneous exclusion of Plaintiff's North Carolina wages—despite documented evidence that such wages were present in the claimant's profile—demonstrates a significant departure from the statutory and regulatory framework governing unemployment benefits. By neglecting to aggregate wages as required under 20 C.F.R. § 616.7 and its own internal guidelines, Defendant's decision is not only contrary to law but also constitutes an abuse of discretion. This failure further supports the finding that Defendant's administrative actions are arbitrary and capricious.

**Relief Requested :**

Plaintiff requests the following relief in violations of his constitutional and statutory rights:

**Injunctive Relief:**

- **Immediate release of improperly withheld payments of approximately $6,000 in back pay** plus statutory penalties(if applicable) under **CRS §§ 10-3-1115 and 10-3-1116**, including up to three times the amount owed due to wrongful denial and delay, along with all accrued interest.
- **Elimination or amendment of restrictive policies** that prevent claimants from disputing wage miscalculations or petitioning for corrections beyond the narrow, pre-selected appeal options currently available.
- **Mandated procedural reforms to protect due process in benefit determinations,**

- Updating the claimant portal to allow direct electronic submission of documents, appeal filings, and communication with caseworkers.
- Requiring call center agents to provide their names and a docket or incident number for every interaction, ensuring that each claimant's case history is documented and linked to their portal to prevent unnecessary restarts with each call.
- Overhauling appeal procedures to guarantee claimants can challenge miscalculations, wage exclusions, and benefit reductions without being funneled into non-substantive or obstructive options.
- Enforcement of ADA compliance across all CDLE communication methods, ensuring that disabled claimants have equitable access to benefit corrections through reliable electronic alternatives beyond outdated fax or costly and time consuming mail-only submissions.

**Declaratory Relief:**

- **Defendant's administrative practices violate the Due Process Clause of the Fourteenth Amendment** by failing to provide a functional appeals process, improperly restricting claimants' ability to challenge benefit miscalculations, and imposing procedural barriers that deny a meaningful opportunity to be heard.
- **Defendant's failure to provide reasonable accommodations and accessible communication methods violates Title II of the Americans with Disabilities Act (ADA),** as it knowingly maintained a system that was inaccessible to individuals with disabilities and failed to implement reasonable modifications to ensure equal participation.

- **Defendant's conduct constitutes an unlawful deprivation of property rights** under the First and Fourteenth Amendments by denying Plaintiff and similarly situated individuals their entitled unemployment benefits without due process and by obstructing their ability to petition the government for redress.
- **Governmental immunity does not shield Defendant from liability** where officials and or representatives acted with deliberate indifference, willful misconduct, or reckless disregard for constitutional and statutory rights.

**Monetary Relief:**

- $150,000 in compensatory damages for economic losses, emotional distress, and physical harm, including hospitalization from COVID-19 exposure due to Defendant's unsafe administrative conditions.
- Punitive damages to deter future misconduct and hold Defendant accountable for systemic violations.
- Costs, and statutory interest on all wrongfully withheld benefits and damages awarded(if not applicable under injunctive)

Any other Judgement or Relief so deemed appropriate by the court

**In Conclusion**

This case is not merely about the deprivation of a few thousand dollars in unemployment benefits—it is about the profound and far-reaching harm inflicted upon Plaintiff due to Defendant's reckless, discriminatory, and obstructive actions. The consequences of these failures extend beyond financial loss, plunging Plaintiff into humiliation, exhaustion, and abject poverty. Deprived of economic stability, Plaintiff was left without adequate food, healthcare, or safe housing. Defendant's AI-driven call systems disconnected claimants, representatives routinely hung up, and supervisors engaged in deception, sabotage, and false assurances, systematically obstructing any attempt to seek redress. Plaintiff was forced into unsafe in-person visits where he contracted COVID-19 due to Defendant's failure to provide accessible alternatives. At every turn, the appeals process was structured to prevent meaningful review, ensuring that miscalculations and wrongful benefit denials remained uncorrected.

While courts may excuse isolated administrative failures, the judiciary has consistently recognized that when systemic violations accumulate—denying due process, accessibility, medical safety, economic security, and equal protection—the cumulative effect is undeniable and legally actionable. Defendant's misconduct is not a mere bureaucratic lapse but an entrenched pattern of failure spanning multiple dimensions, including procedural obstruction, ADA noncompliance, deprivation of due process, reckless disregard for public health and safety, economic destabilization, and institutional negligence. The weight of these repeated and compounding failures requires judicial intervention. Plaintiff's claims are not speculative or abstract; they are substantiated, repeated, and sustained over time, demonstrating not just harm to him but an ongoing constitutional crisis affecting all similarly situated claimants.

Beyond financial loss, Plaintiff has been forced into unpaid, exhausting labor simply to seek the justice he was systematically denied. He has sacrificed hours, days, and nights researching, drafting, and refining this complaint—work that should never have been necessary had Defendant exercised even a minimal duty of care. The mental, emotional, and physical toll of being forced into this fight, compounded by Plaintiff's disability and lifelong indigency, only multiplies the cruelty of Defendant's reckless indifference.

Knowing full well that they controlled the economic stability and livelihoods of vulnerable claimants, Defendant prioritized its own convenience over justice, clearing phone queues to manipulate performance metrics rather than resolving legitimate claims. Claimants were met with outright lies, false assurances of hope and restitution, and deceptive tactics designed to pacify them long enough to disconnect. The systemic reliance on misleading guidance, inconsistent responses, and deliberate dead-ends was not mere inefficiency but a calculated strategy to frustrate, disenfranchise, and humiliate those most in need. This entrenched pattern of obstruction and disregard for human life and dignity is not just negligence—it is proof of malice, institutional indifference, and a willful disregard for the law and the people it is meant to protect. The breadth and severity of harm suffered, physical, emotional, financial, and constitutional, render the relief sought by the Plaintiff not only justified but modest in comparison to the egregious violations committed.

Joshua Abrams

Date: 02-07-2025 | ❑Petitioner/Plaintiff |

Joshua Abrams, Pro Se