

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:24-CV-03390-RTG
(To be supplied by the court)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
12:38 pm, Feb 07, 2025
JEFFREY P. COLWELL, CLERK

Joshua Abrams, Plaintiff

v.

Jury Trial requested:
(please check one)
☒ **Yes** ☐ **No**

Division of Unemployment Insurance,

Joe Barela,

Jeff Fitzgerald,

John & Jane Doe(s), Defendant(s).

(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names of the defendants listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

COMPLAINT

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.

A. PLAINTIFF INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

Joshua Abrams, 10722 N Parfet Street , Westminster Colorado 80021

(Name and complete mailing address)

(609) 968 - 9360 | abramslive@gmail.com

(Telephone number and e-mail address)

B. DEFENDANT(S) INFORMATION

Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."

Defendant 1: Division of Unemployment Insurance 251 E 12th Ave , Denver Co 80203

(Name and complete mailing address)

303-318-9000

(Telephone number and e-mail address if known)

Defendant 2: Joe Barela 633 17th Street, Suite 201, Denver, CO 80202-3660

(Name and complete mailing address)

303-318-8441 | jbarela@colorado.gov

(Telephone number and e-mail address if known)

Defendant 3: Jeff Fitzgerald 251 East 12th Avenue, Denver, CO 80203

(Name and complete mailing address)

303-318-9399 | jeff.fitzgerald@state.co.us

(Telephone number and e-mail address if known)

Defendant 4: John & Jane Doe(s)

(Name and complete mailing address)

(Telephone number and e-mail address if known)

C. JURISDICTION

Identify the statutory authority that allows the court to consider your claim(s): (check one)

 x Federal question pursuant to 28 U.S.C. § 1331 (claims arising under the Constitution, laws, or treaties of the United States)

List the specific federal statute, treaty, and/or provision(s) of the United States Constitution that are at issue in this case.

First Amendment, Fourteenth Amendment, Americans with Disabilities Act Title II, 42 U.S.C. § 1983,

Ninth Amendment, Tenth Amendment, 20 C.F.R. § 616.7, Ex Parte Young.

 Diversity of citizenship pursuant to 28 U.S.C. § 1332 (a matter between individual or corporate citizens of different states and the amount in controversy exceeds \$75,000)

Plaintiff is a citizen of the State of _____.

If Defendant 1 is an individual, Defendant 1 is a citizen of _____.

If Defendant 1 is a corporation,

Defendant 1 is incorporated under the laws of _____ (name of state or foreign nation).

Defendant 1 has its principal place of business in _____ (name of state or foreign nation).

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

D. STATEMENT OF CLAIM(S)

State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as “D. STATEMENT OF CLAIMS.”

CLAIM ONE: _____

Supporting facts:

Plaintiff attached additional page labeled as 'D. STATEMENT OF CLAIMS,'

Plaintiff's Attached Complaint also provide a comprehensive account of all incidents, individuals involved, and legal claims.

D. STATEMENT OF CLAIMS

- **CLAIM ONE: Violation of Right to Petition (First Amendment)**

Right Violated: Plaintiff's right to petition the government for redress of grievances.

Facts Supporting Claim: Defendant obstructed and restricted Plaintiff's ability to challenge errors in unemployment benefit calculations. Defendant's restrictive policies, lack of communication channels, and reliance on obstructive phone systems barred Plaintiff from contesting errors. Plaintiff made over 100 calls, submitted faxes, and visited CDLE offices in person between March 7, 2023, and May 24, 2023, only to face misinformation, disconnected calls, and procedural dead-ends. Supervisors falsely promised resolution, misled Plaintiff, and failed to take corrective action.

- **CLAIM TWO: Violation of Due Process (Fourteenth Amendment)**

Right Violated: Plaintiff's right to due process before being deprived of property (unemployment benefits).

Facts Supporting Claim: Defendant excluded Plaintiff's North Carolina wages from benefit calculations, reducing his weekly benefit to \$119, and failed to provide a meaningful opportunity to correct the error. The restrictive appeals process, inaccessible communication systems, and procedural barriers denied Plaintiff the chance to contest miscalculations. Dates of incidents include March 27, 2023, when Plaintiff submitted a Wage Correction Letter, and April 5, 2023, when Plaintiff received the erroneous determination. Individuals involved include call center agents, supervisors, and policy-makers responsible for implementing obstructive policies.

- **CLAIM THREE: Violation of the Americans with Disabilities Act (ADA)**

Right Violated: Plaintiff's right to reasonable accommodations for his disabilities under the ADA.

Facts Supporting Claim: Defendant failed to provide remote accommodations or accessible processes for Plaintiff, who has disabilities and was at high risk for severe illness during the COVID-19 pandemic. Plaintiff was forced into unsafe in-person visits, contracted COVID-19, and suffered severe respiratory complications. Defendant had federal funding to modernize systems but refused to implement remote alternatives. Incidents occurred in April 2023 during multiple in-person visits to CDLE offices. Individuals involved include accessibility decision-makers and staff responsible for enforcing policies.

- **CLAIM FOUR: Violation of Unenumerated Rights (Ninth Amendment)**

Right Violated: Plaintiff's inherent right to fair administrative processes and economic stability.

Facts Supporting Claim: Defendant's systemic failures, including the exclusion of wages and restrictive appeals processes, deprived Plaintiff of fair treatment and economic stability. Defendant imposed antiquated, unreliable communication methods and forced claimants to incur additional expenses to navigate the system. These actions denied Plaintiff meaningful participation in the administrative process and directly harmed his financial security. Incidents occurred between March 2023 and May 2023, involving CDLE administrators and policy-makers.

- **CLAIM FIVE: Violation of State Sovereignty Principles (Tenth Amendment)**

Right Violated: Plaintiff's rights under the Tenth Amendment as protected by federal constitutional

guarantees.

Facts Supporting Claim: Defendant exceeded its authority by implementing policies that violated federally protected rights, including due process and equal protection. Defendant's misuse of CRS §§ 8-74-106, 8-74-104, and related statutes obstructed Plaintiff's ability to challenge errors. These actions exacerbated financial harm and limited Plaintiff's ability to contest unlawful denials. Incidents occurred in April 2023 during Plaintiff's appeals process, involving administrative staff and policy-makers.

- **CLAIM SIX: Negligence**

Right Violated: Defendant's duty of care to administer unemployment benefits accurately and safely.

Facts Supporting Claim: Defendant negligently miscalculated Plaintiff's benefits, obstructed meaningful appeals, and failed to provide safe communication systems. These failures caused financial harm, emotional distress, and severe health complications. Plaintiff contracted COVID-19 due to unsafe in-person visits required by Defendant's negligence. Incidents occurred between March 7, 2023, and May 24, 2023, involving administrative staff and supervisors.

- **CLAIM SEVEN: Intentional and/or Negligent Infliction of Emotional Distress**

Right Violated: Defendant's duty to avoid conduct causing emotional harm.

Facts Supporting Claim: Defendant's obstructive policies, deceptive communications, and refusal to correct errors caused severe emotional distress, anxiety, and financial devastation. Defendant's disregard for Plaintiff's disabilities and economic vulnerability further exacerbated the harm. Incidents occurred between March 2023 and May 2023, involving CDLE staff, supervisors, and policy-makers.

- **CLAIM EIGHT: Violation of the Colorado Administrative Procedures Act (APA)**

Right Violated: Defendant's duty to act within the limits of administrative law and avoid arbitrary and capricious decisions.

Facts Supporting Claim: Defendant engaged in arbitrary and capricious practices by implementing an appeals process that foreclosed substantive review. Plaintiff's North Carolina wages were excluded from calculations, and Defendant offered only a withdrawal remedy, preventing any meaningful opportunity for redress. These actions violated CRS § 24-4-106. Incidents occurred between March 27, 2023, and May 24, 2023, involving CDLE administrative decision-makers.

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For detailed facts, evidence, and legal arguments supporting these claims, see **Plaintiff's Complaint** attached. The complaint provides an in-depth narrative, specific incidents, and legal violations across all counts.

E. REQUEST FOR RELIEF

State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as “E. REQUEST FOR RELIEF.”

Plaintiff attached additional page labeled as E. REQUEST FOR RELIEF

F. PLAINTIFF’S SIGNATURE

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Joshua Abrams
(Plaintiff’s signature)

02/07/2025
(Date)

(Revised February 2022)

E. REQUEST FOR RELIEF

Injunctive Relief:

- Immediate payment of the approximate \$6,000 in back pay owed, along with statutory penalties* under CRS §§ 10-3-1115 and 10-3-1116, including interest accrued for wrongful delay and denial. (**if applicable)
- An order requiring Defendant to abolish or amend restrictive administrative practices:
- Overhauling claimant portals to allow accessible electronic submissions and substantive appeal options.
- Requiring transparency and accountability in claimant communications by linking case histories, providing incident numbers, and ensuring consistent records.
- Establishing ADA-compliant procedures and safe alternatives during public health crises to accommodate all claimants.

Declaratory Relief:

- Declaring Defendant's administrative policies and actions unconstitutional under the First and Fourteenth Amendments, and in violation of the Americans with Disabilities Act, by obstructing due process, equal protection, and reasonable accommodations.

Monetary Relief**:

Compensation for economic, physical, and emotional harm caused by Defendant's negligent and deliberate actions. \$150,000 , consideration of CRS §§ 10-3-1115 and 10-3-1116, including interest accrued for wrongful delay and denial. (if applicable here instead)

**The state and statutory damages are sought in direct connection to and as a result of the federal violations outlined in this complaint. Should the Court determine that Plaintiff must separate state and federal claims into two distinct complaints, Plaintiff respectfully objects, as this would impose additional burdens that are discussed in the attached complaint. However, should the Court decide not to exercise jurisdiction over state claims, Plaintiff requests a brief period to appropriately split the complaint and amend both as necessary. This request ensures the federal complaint is not dismissed solely for the inclusion of monetary damages and maintains the integrity of Plaintiff's case in both state and federal contexts.