

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.

GIA CUCCARO,
HEATHER FULOP,
LUISA COCOZELLI,
LORI BETH ERTELL,
HARRIET RUBIN,
JAMESHA BENT,
HELEN BLUMBERG,
EDWARD BRIAN SMOOT,
ASHLEY BROCKINGTON,
VICTORIA LABA
on behalf of themselves and
all unemployed Floridians

Plaintiff,

vs.

RON DESANTIS, in his official
capacity as GOVERNOR of the
State of Florida, FLORIDA DEPARTMENT OF
ECONOMIC OPPORTUNITY and
DANE EAGLE as Director of FLORIDA
DEPARTMENT OF ECONOMIC
OPPORTUNITY

Defendants

**COMPLAINT FOR MANDAMUS,
DECLARATORY RELIEF AND INJUNCTIVE RELIEF**

Gia Cuccaro, Heather Fulop, Luisa Cocozelli, Lori Beth Ertell, Harriet Rubin, Jamesha Bent, Helen Blumberg, Edward Brian Smoot, Ashley Brockington and Victoria Laba (“Plaintiffs”) sue Defendants, Ron DeSantis in his official capacity as Governor of the State of Florida (“DeSantis”), Florida Department of Economic Opportunity (“DEO”) and Dane Eagle as Director of Florida Department of Economic Opportunity (“Eagle”) and alleges as follows:

Jurisdiction

1. This is an action for mandamus, declaratory relief and injunctive relief with a value in excess of \$30,000 exclusive of attorneys fees and court costs.
2. Venue is proper in Broward County, Florida as Defendants have deprived Plaintiffs of real and personal property rights in Broward County, Florida.

The Parties/Participants

3. Plaintiffs are individuals residing in Broward County, Florida and are *sui juris*.
4. DeSantis is the Governor of the State of Florida. Eagle is the Director of the Florida Department of Economic Opportunity and was appointed by DeSantis. DEO is the Florida Agency responsible for administering State and Federal unemployment benefits throughout the State of Florida. As alleged herein, each of these entities have taken actions against these Broward County residents to deprive them of real and personal property rights.

General Allegations

5. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (“CARES”) was signed into laws and is codified into laws as 15 USC Section 9001 *et. seq.*
6. The CARES Act temporarily enhanced federal unemployment insurance benefits establishing the following benefits:
 - A. Pandemic Unemployment Assistance (“PUA”) for workers who were not eligible for regular unemployment benefits and whose

unemployment was caused by COVID-19 such as gig workers and self-employed 1099 workers (15 USC Section 9021);

- B. Pandemic Emergency Unemployment Compensation (“PEUC”), which extended regular unemployment compensation benefits for workers who have exhausted their unemployment insurance benefits (15 USC Section 9025);
- C. Federal Pandemic Unemployment Compensation (“FPUC”) which increased the amount of UI benefits by \$600 per week from March 27, 2020 through July 31, 2020.

7. PUA, PEUC, and FPUC are funded and conferred by 42 USC Section 1101, 1104 and 1105.

8. On December 26, 2020, the unemployment provisions of the CARES Act, including PUA and PEUC were extended through March 14, 2021, by the Continued Assistance for Unemployed Workers Act of 2020 (“CAUWA”). CAUWA re authorized FPUC in the amount of \$300 per week, payable from December 26, 2020 through March 14, 2021.

9. On March 11, 2021, PUA, PEUC and FPUC were extended through September 6, 2021, by the American Rescue Plan Act of 2021 (“ARPA”).

10. Each of the Plaintiffs have suffered economic hardships because of COVID, have had difficulty finding work and now, with the discontinuation of the FPUC, face even more pressing financial hardships:

- A. **Gia Cuccaro** because of COVID and despite the existing unemployment

benefits has been unable to pay her rent and is about to be evicted from her home, due to the lack of federal payments and the expiration of the eviction moratorium on July 31, 2021. Cuccaro is a thirty-year paralegal who has been actively searching, but is unable to find work;

B. **Heather Fulop** is a single mother of two children ages five and eleven. Fulop was a NICU RN, whose hours were eliminated when there became an influx of COVID cases in her hospital. Once kids were required to home school, she had to juggle with taking care of her kids given she had no family members living near her. Even though she only received the meager Florida unemployment payment of \$275 per week, with the extra federal benefits she was able to pay her utilities and her rent. Based upon her financial situation and the cut off of federal benefits she now fears losing her home. She was relying upon the Federal promise of the extra FPUC until September when her kids went back to school full time and she could try to locate a full time job. She is not lazy. She has worked since she was fourteen years old;

C. **Luisa Cocozelli** has been furloughed from working in the cruise line industry since COVID struck. While she has been actively looking for work, based upon her age, to date she has been unable to find employment. Because of the very low Florida unemployment weekly pay, without the FPUC she would have been unable to pay her basic bills such as rent, food, and utilities. She has been unable as of yet to get approved for renters assistance and has

depleted her savings. The discontinuance of FPUC will create problems with her paying rent, food and utility bills.

- D. **Lori Beth Ertel** was self-employed prior to COVID and was doing accounting work for small businesses. Since COVID, many of those businesses have closed leaving her without clients. She has sent out many job applications with no responses. She tried to apply to work at McDonalds and was told that she is overqualified and they were worried that they would train her and she would leave when she found something better. She has had to worry daily about eviction and her adult daughter and seven year-old granddaughter were forced to move, out of her home, to Kentucky to a more secure living arrangement. As a self-employed person without the FPUC she only gets \$125 a week in benefits which makes it impossible for her to pay her utilities, electric, cable, phone and car insurance. With the discontinuation of the FPUC, she does not know whether she will be able to stay in her home or pay her basic living expenses;
- E. **Harriet Rubin** is a senior who has been actively searching for work and can't find any. She has been unable to pay her real property taxes and now has a lien on her property. Her home also needs repairs and she can't afford to make them. She can't afford her expenses without the FPUC she was receiving;
- F. **Jamesha Bent** and her family are facing eviction based upon the

discontinuation of FPUC. As it was, she had difficulty getting the payments that DEO was legally required to pay based upon a faulty CONNECT system, and issues with unnecessary holds. She constantly has contacted DEO employees and other agents with no luck. Now, even the money she had previously fought for, in the form of FPUC has been discontinued causing financial harm and stress to her and her family members;

- G. **Helen Blumberg** has been in the travel industry and lost her business during COVID. She has been searching for work and had a job lined up that decided not to open back up based upon the new COVID case surge. She has maxed out all of her credit cards and depleted any savings to pay her bills. Without the additional FPUC, she does not know how she will pay her bills;
- H. **Edward Brian Smoot** is self employed and lost most of his business due to COVID. DEO has failed to pay him his full unemployment back to early 2020 so he has maxed out his credit cards and has been unable to pay his bills. Since FPUC has ended, he has struggled even more to pay his bills and still cant get paid the monies he is owed dating back to March and April of 2020;
- I. **Ashley Brockington** has been attempting to claim unemployment since March 2020. It took her four months to get her DEO payments. Since that time she has also been locked out of the DEO system, with no explanation, at least four times. Ashley is an unemployed mother of two who has about \$3000 in monthly bills. Aside from her being completely behind in all bills

based upon DEO's ineptitude, the federal payments helped her pay her bills including food bills while she was waiting for food stamp monies to be replenished each month. Without the federal benefits she is not sure how she will pay her expenses and keep food on the table for her children;

J. **Victoria Laba** is a Broward resident who is behind on her bills and is now facing eviction when the eviction moratorium ends in July 31, 2021, based upon the discontinuation of the FPUC benefits.

11. The CARES Act required the Secretary of the Department of Labor to provide PUA benefits, including FPUC, through agreements with each State, including Florida. See, 15 USC Section 9021(b).

12. The Florida DEO entered into an agreement regarding PUA, PEUC and FPUC with the United States Department of Labor on behalf of the State of Florida when the CARES Act was passed on March 27, 2021.

13. On May 24, 2021, Governor DeSantis, Eagle and DEO announced that Florida would end its participation in the FPUC program effective June 26, 2021, for purely partisan and political purposes.

14. DeSantis' termination of Florida's participation in these programs will reduce and/or eliminate the benefits to which the Plaintiffs would otherwise be entitled.

15. If FPUC benefits are terminated in Florida, each of the Plaintiffs and other needy residents of the State of Florida, will be unable to cover basic living expenses such as housing, utilities, food, health care and child care.

16. Given that Florida's unemployment compensation program pays one of the lowest benefits in the Country¹, and is one of the shortest durations in the country, even the addition of the extra Federal payments still barely allows unemployed Floridians to pay their basic living expenses.

16. Florida's unemployment insurance program is governed generally by Florida Statutes Section 443, *et. seq.*

17. Florida's unemployment insurance program is directed by the Florida Department of Economic Opportunity through its Director, Eagle.

18. Pursuant to Fla. Stat. 443.031:

This chapter shall be liberally construed to accomplish its purpose to promote employment security by increasing opportunities for reemployment and to provide, through the accumulation of reserves, for the payment of compensation to individuals with respect to their unemployment. The Legislature hereby declares its intention to provide for carrying out the purposes of this chapter in cooperation with the appropriate agencies of other states and of the Federal Government as part of a nationwide employment security program, and particularly to provide for meeting the requirements of Title III, the requirements of the Federal Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933, entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," each as amended, in order to secure for this state and its citizens the grants and privileges available under such acts. All doubts as to the proper construction of any provision of this chapter shall be resolved in favor of conformity with such requirements.

19. Pursuant to Fla. Stat. Section 443.171 (1), "The Department of Economic Opportunity *shall* administer this chapter."

Florida, Which has One of the Lowest Unemployment Payouts in US, to End \$300 Additional Benefit, Newsweek, May 24, 2021.
<https://www.newsweek.com/florida-which-has-one-lowest-unemployment-payouts-us-end-300-additional-benefit-1594347>

20. Pursuant to Fla. Stat. Section 443.171 (9):

(9) STATE-FEDERAL COOPERATION.—

(a)1. In the administration of this chapter, the *Department of Economic Opportunity and its tax collection service provider shall cooperate with the United States Department of Labor to the fullest extent consistent with this chapter and shall take those actions, through the adoption of appropriate rules, administrative methods, and standards, necessary to secure for this state all advantages available under the provisions of federal law relating to reemployment assistance.*

2. In the administration of the provisions in s. 443.1115, which are enacted to conform with the Federal-State Extended Unemployment Compensation Act of 1970, the department shall take those actions necessary to ensure that those provisions are interpreted and applied to meet the requirements of the federal act as interpreted by the United States Department of Labor and to secure for this state the full reimbursement of the federal share of extended benefits paid under this chapter which is reimbursable under the federal act.

3. The department and its tax collection service provider shall comply with the regulations of the United States Department of Labor relating to the receipt or expenditure by this state of funds granted under federal law; shall submit the reports in the form and containing the information the United States Department of Labor requires; and shall comply with directions of the United States Department of Labor necessary to assure the correctness and verification of these reports.

(Emphasis Added).

21. The FPUC benefits conferred under 42 USC Section 1101, *et. seq.* are an extension of the existing Federal Unemployment Tax Act, 26 USC Section 3301.01, *et. seq.*

22. By terminating Florida's participation in FPUC benefits conferred under 42 USC Sections 1101, 1104 and 1105, Defendants are violating their clear legal and statutory duty to secure such benefits for employees in the State of Florida including the Plaintiffs and all other residents of the State of Florida who have been receiving FPUC benefits.

23 All conditions precedent necessary to maintain this action have been

performed, waived or excused.

24. The Plaintiffs have retained the undersigned counsel to represent them in this matter and have agreed to pay them a fee for their services.

Count I- Declaratory Relief (Fla Stat. Section 86 et. seq.)

Plaintiffs reaver and reallege paragraphs 1 through 24 as if fully set forth herein and further alleges:

25. Plaintiffs contend that they are entitled to the continuation of FPUC benefits as provided by the various Federal statutes cited herein and that the Defendants have wrongfully discontinued these benefits in violation of Florida Statutes Sections 443.031 and 443.171 (9).

26. There is a bona fide, actual and present need for declaratory relief between the parties as to whether Defendants have violated Florida Statutes 443.031 and 443.171(9) by cutting of FPUC benefits.

27. Plaintiffs seek a declaration concerning a present, ascertained or ascertainable state of facts and in particular a declaration of whether, pursuant to state law, the Defendants wrongfully cut off the FPUC benefits which they were receiving.

28. An immunity, power, privilege or right of Plaintiffs is dependent upon the facts or the law applicable to the facts.

29. Plaintiffs have an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

30. The antagonistic and/or adverse interests are before this court by proper

process.

31. The relief sought is not merely for giving of legal advice.

32. Based upon the foregoing allegations, the Plaintiffs are entitled to a declaration pursuant to the Florida Declaratory Judgment Act that the Defendants must secure all possible federal pandemic unemployment benefits available to Floridians pursuant to Florida Statutes 443.031 and 443.171 (9).

WHEREFORE, Plaintiffs demand declaratory judgment that the Defendants wrongfully discontinued the FPUC benefits in violation of Florida Statutes, together with reasonable costs pursuant to Fla. Stat. 86.081, and for any and all other and further relief this Court deems just and proper under the circumstances.

Count II-Mandamus

Plaintiffs reaver and reallege paragraphs 1 through 24 as if fully set forth herein and further alleges:

33. This court has jurisdiction to issues Writs of Mandamus pursuant to Florida common law.

34. By withdrawing Florida from participation in the FPUC programs, the defendants are depriving the Plaintiffs and all residents of the State of Florida weekly FPUC benefits they could receive until the FPUC benefits expire, if they remain eligible for those benefits. See, 15 USC Section 9021 (b) generally.

35. Pursuant to Florida Statute Section 443.171(9) In the administration of this chapter, the *Department of Economic Opportunity and its tax collection service provider*

shall cooperate with the United States Department of Labor to the fullest extent consistent with this chapter and shall take those actions, through the adoption of appropriate rules, administrative methods, and standards, necessary to secure for this state all advantages available under the provisions of federal law relating to reemployment assistance.

36. The FPUC benefits are part of the federal unemployment benefits provided by the United States Department of Labor covered by Fla. Statutes 443.

37. Defendants have a clear statutory duty to secure for Floridians all available federal unemployment benefits including those under FPUC.

38. Defendants have failed to satisfy their statutory duties under Florida Statutes 443.031 and 443.171.

39. Plaintiffs have no plain and adequate remedy in the ordinary course of the law to obtain the benefits under FPUC terminated by Defendants.

40. Plaintiffs seek a Writ of Mandamus requiring the Defendants to take all necessary actions to immediately restore FPUC benefits as is required by Florida Statutes and seek back the retroactive payments lost since June 26, 2021.

WHEREFORE, Plaintiffs, demands a writ of mandamus ordering the Defendants to immediately notify the US Department of Labor of the State of Florida's continued participation in the CARES Act program for the duration of these programs, for a writ of mandamus ordering the Defendants to perform their statutory duties and to immediately take all action necessary to reinstate Florida's participation in all federal unemployment insurance benefits available from the US Department of Labor, including obtaining all

retroactive FPUC pay owed to Florida residents, and for any other relief this Court deems just and proper.

Count III
(Temporary and Permanent
Mandatory Injunction)

Plaintiffs reaver and reallege paragraphs 1 through 24 as if fully set forth herein and further alleges:

41. The actions of Defendants in terminating FPUC benefits under the CARES Act more than two months prior to the September 6, 2021 expiration of the benefits was a violation of Florida State law.

42. As a result of the actions of the Defendants, the Plaintiffs and all unemployed Floridians, have suffered and will continue to suffer substantial and irreparable harms for which they have no adequate remedy at law, prohibiting their ability to pay for basic living expense such as vehicles, food and rent. This harm to the Plaintiffs and all Floridians constitutes irreparable harm pending resolution of this action and are not adequately compensable by an award of damages.

43. Nor can the Plaintiffs wait for delayed benefits until the end of this controversy on the merits and a failure to obtain immediate relief will cause dire financial consequences to the Plaintiffs and all unemployed Floridians.

44. Plaintiffs are likely to succeed on the merits of these claims.

45. The State of Florida's cost to administer CARES Act Benefits are covered by Cares Act Funding. See 15 USC Section 9021(g), 9023(d), 9025(a)(4)(A). Therefore the

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