

STATE OF MICHIGAN
IN THE SUPREME COURT
APPEAL FROM THE COURT OF APPEALS

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

Plaintiffs-Appellees,

Supreme Court Case No. 160813

Court of Appeals No. 333181

v

Court of Claims

Case No. 2015-00202-MM

Hon. Cynthia Diane Stephens

STATE OF MICHIGAN
UNEMPLOYMENT INSURANCE
AGENCY,

Defendant-Appellant.

**BRIEF *AMICI CURIAE* OF THE CENTER FOR CIVIL JUSTICE, THE ARC
MICHIGAN, DETROIT EVICTION DEFENSE, MICHIGAN LEGAL SERVICES AND
UNITED COMMUNITY HOUSING COALITION IN SUPPORT OF PLAINTIFFS-
APPELLEES' RESPONSE TO DEFENDANT-APPELLANT'S APPLICATION FOR
LEAVE TO APPEAL**

ORAL ARGUMENT REQUESTED

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INTERESTS OF AMICI CURIAE

The Center for Civil Justice (CCJ) respectfully submits this amicus brief pursuant to MCR 7.312(H), in support of Plaintiff-Appellees, urging this Honorable Court to deny Appellant Michigan Unemployment Insurance Agency's ("the Agency") Application for Leave to Appeal and affirm the Court of Appeals' decision.

Amici Curiae are state organizations that assist low-income Michigan residents and people with disabilities.¹ By falsely accusing people of fraud and then seizing their income and tax benefits, the Agency has driven people into deeper financial distress. Their actions had far-reaching consequences, including increasing housing insecurity and making it harder for families to make ends meet. *Amici Curiae* have a shared interest in ensuring that individuals have the right to seek redress through the judicial system to remedy this egregious wrong.

CCJ is a nonprofit legal organization that advocates for the rights of low-income people in Michigan through impact litigation, public policy initiatives and educational campaigns. Originally established as the Genesee County Legal Aid Society, CCJ has served the Michigan population since 1951. We work to ensure that Michigan's low-income population has greater access to basic needs and services, particularly related to food and nutrition, housing, healthcare, and monetary support. We strive to remove the barriers that prevent people from escaping poverty and advocate for programs that stabilize household income so that poverty does not become a permanent state for people experiencing temporary hardship.

For example, in *Barry et al v Lyon*, CCJ and the American Civil Liberties Union of Michigan (ACLU) filed a federal class action challenging a state practice that automatically

¹ No counsel for a party authored this brief in full or in part. No counsel or party made a monetary contribution intended to fund the preparation or submission of the brief.

terminated food assistance, cash assistance and childcare benefits to anyone with an outstanding felony warrant based on a faulty data-matching program. *Barry v. Lyon*, 834 F 3d 706, 2016 US App LEXIS 15671, 2016 FED App 0208P (6th Cir) (2016). The complaint also alleged that the Michigan Department of Health and Human Services (MDHHS) informed benefit recipients of the terminations in a manner that denied them due process. *Id.* The District Court held that the State had imposed disqualifications without affording the plaintiffs due process. *Id.* The Court also held that the computerized system MDHHS used to disqualify individuals from the state-administered Food Assistance Program (FAP) benefits as “fleeing felons” was unlawful because it treated the mere existence of an outstanding felony warrant in a person’s name as proof that they were a “fleeing felon.” *Id.* The Sixth Circuit affirmed. As a result of the lawsuit, we restored an estimated \$52 million in benefits to nearly 17,000 people, and many thousands of future disqualifications were averted.

Many members of the plaintiff class in the present case are part of the population that CCJ serves. CCJ has an interest in this case because recipients of unemployment insurance are a vulnerable population, many of whom are experiencing temporary or situational poverty on account of a job loss. The Agency is tasked with administering unemployment insurance, a crucial benefit that can prevent poverty. Indeed, as Michigan has reduced or eliminated the availability of other income supports for people experiencing unemployment, unemployment insurance benefits play an even more important role in alleviating or preventing poverty in our State. Following the State’s elimination of the General Assistance program for childless adults in the 1990s, and the retroactive imposition of strict, lifetime time limits on the receipt of Family Independence Program cash assistance for families with children beginning in 2011,

unemployment insurance has become, for many, the sole source of income available to them during period of unemployment.

The Arc Michigan works to ensure that people with developmental disabilities and their families can fully participate in society and contribute to their community. Through governmental advocacy, organizing efforts and training, the Arc Michigan creates opportunities for people with disabilities to have employment, education, meaningful relationships and to live independently. The Arc Michigan has an interest in this case, because the Agency's actions created considerable financial stress for families, hindering caregivers' capacity to support family members with disabilities.

Detroit Eviction Defense is a coalition of homeowners, union members, faith-based activists, community advocates, and allied groups united in the struggle against foreclosure and eviction in Detroit, Michigan. Through grassroots advocacy, direct action and peaceful protest, Detroit Eviction Defense helps defend families against eviction and foreclosure. Detroit Eviction Defense has an interest in this case, because the Agency's wrongful actions needlessly created housing insecurity by driving families deeper into financial hardship.

Michigan Legal Services is a nonprofit legal organization that advocates for public policies that address and remedy root causes of poverty. Through direct representation in tax foreclosure, mortgage foreclosure and eviction proceedings, Michigan Legal Services protects the rights of low-income individuals and helps families find permanent supportive housing. Michigan Legal Services has an interest in this case because the Agency increased families' financial stress, driving many deeper into poverty and unable to fulfill essential human needs.

United Community Housing Coalition is a nonprofit legal organization that helps low-income Detroit residents stay in their homes and strengthen their communities. Since 1973,

United Community Housing Coalition has provided housing assistance to those in need, including representation in eviction and foreclosure proceedings, tax foreclosure prevention, rental assistance and housing relocation. United Community Housing Coalition has an interest in this case, because the Agency created financial hardship for Michigan families, hindering their ability to maintain stable housing.

INTRODUCTION

This Court should deny the Agency's Application for Leave to Appeal because the Court of Appeals properly determined that this is an appropriate case to infer damages against the state. The harm the Agency caused to the plaintiff class stems from the intentional decision to cede authority to an automated computer system. Through algorithmic decision-making and data matching, the Michigan Data Automated System (MiDAS) made findings of fraud and imposed fraud-based penalties without any human oversight. As a result of this policy and practice, the Agency determined that former beneficiaries of unemployment insurance committed fraud. They claimed many individuals owed the State of Michigan thousands of dollars in back benefits and fees, and they garnished wages and intercepted tax refunds. Plaintiffs were deprived of their property without notice or an opportunity to challenge the Agency's determination.

CCJ maintains that damages are appropriate in this case because the Agency's policy and practice of relying on MiDAS denied Plaintiffs due process, thereby violating the Michigan Constitution, Art 1, § 17. The Agency wrongfully took Plaintiffs' property, which inflicted harms beyond the money that was taken, and which contributed to impoverishing individuals. CCJ also argues that awarding damages in this case is in the public interest and is critical to safeguarding this important government-administered insurance program.

ARGUMENT

I. This is an appropriate case to allow a damage remedy because no other remedy was available to challenge the Agency’s use of MiDAS and to fully remediate the harm the Agency caused to Plaintiffs.

a. The case law supports awarding damages when a state agency acts pursuant to a policy or practice.

In *Smith*, the Supreme Court of Michigan recognized and a majority of justices agreed that “[a] claim for damages against the state arising from a violation by the state of the Michigan Constitution may be appropriate in certain cases.” *Smith v State*, 428 Mich 540, 544, 410 NW2d 749, 751 (1987). The *Smith* Court followed the logic of *Bivens* and its progeny, which noted that “[h]istorically, damages have been regarded as the ordinary remedy for an invasion of personal interests in liberty.” *Bivens v Six Unknown Federal Agents of Fed. Bureau of Narcotics*, 403 US 388, 395, 91 S Ct 1999, 2005, 29 L Ed 2d 619, 627 (1971). Justice Boyle’s concurring opinion in *Smith* also noted that “the absence of any other remedy would, as in *Bivens*, heighten the urgency of the question.” *Smith v State*, 428 Mich 540, 647, 410 NW2d 749, 751 (1987). In *Carlton*, this Court recognized a claim for damages when “an official policy of custom caused a person to be deprived of [state] constitutional rights.” *Carlton v Dep’t of Corrections*, 215 Mich App 490, 505; 546 NW2d 671 (1996).

More recently, in *Mays v Governor*, the Court of Appeals employed a five-part test derived from Justice Boyle’s concurrence in *Smith* to determine the availability of a damage remedy for individuals harmed by the Flint Water Crisis:

To apply the test, we consider the weight of various factors, including, as relevant here, (1) the existence and clarity of the constitutional violation itself, (2) the degree of specificity of the constitutional protection, (3) support for the propriety of a judicially inferred damage remedy in any "text, history, and previous interpretations of the specific provision," (4) "the availability of another remedy," and (5) "various other factors" militating for or against a judicially inferred damage remedy. *Mays v Governor*, 323 Mich App 1, 104, 916 NW2d

227, 264, 2018 Mich App LEXIS 201, *59, 48 ELR 20014, 2018 WL 559726.

CCJ supports the Court of Appeals' application of the test to the facts at hand and additionally offers the following arguments regarding the fourth and fifth factors of the test based on our expertise. See generally *Bauserman v Unemployment Ins Agency (on remand)*, 2019 Mich App LEXIS 7683, *2, 2019 WL 6622945. Considering the fourth factor, "the availability of another remedy," it is quite clear that individual beneficiaries had no recourse to challenge the State's use of MiDAS. As the Court of Appeals properly held:

In our opinion, the Agency's use of the MiDAS system to allegedly disqualify plaintiffs from receipt of unemployment benefits, accuse them of fraudulent receipt of unemployment benefits, and to engage in a concerted system of unlawfully imposing penalties, interest and intercepting the financial resources of the plaintiffs can be aptly characterized as an established practice of a state governmental official such that it amounts to a custom supported by the force of law. *Id* at 26.

The Agency expended resources to obtain MiDAS and implemented it universally across the program. It is disingenuous of the Agency to claim that using MiDAS was not their policy or custom given the ample evidence to the contrary. See Application for Leave to Appeal, pp 18-19. Further, beneficiaries who were harmed by MiDAS had no avenue to challenge the Agency's use of the program. The administrative system to adjudicate claims under the Michigan Employment Security (MES) Act is designed to address individual claims, not systemic policy. MCL 421.1, *et seq*.

b. The Plaintiffs had no available remedy to recover the full extent of the damages caused by the Agency's actions.

The Agency argued that the harm it caused to the plaintiff class has been redressed because the funds it improperly took have been returned. See Application for Leave to Appeal, p 30. However, simply returning the money that was taken does not fully address the plaintiffs' and the class members' harm. An unexpected loss of income can result in wide-ranging and

long-lasting consequences that impoverish families, especially given that the vast majority of Americans live paycheck-to-paycheck.²

By wrongfully garnishing the wages or intercepting the tax returns of the plaintiff class, the Agency deprived the individuals of financial resources to meet their basic needs, driving some into poverty or deeper into poverty. A study by the Michigan Association of United Ways found that 43% of households in Michigan could not afford basic needs, including housing, childcare, food, transportation and technology and 25% of Michigan households were one crisis away from falling below the federal poverty line.³

Many employed Michiganders still struggle to make ends meet. ALICE (Asset Limited, Income Constrained, Employed) refers to households that have incomes above the federal poverty level, but still struggle to afford basic necessities.⁴ This population is also referred to as the “working poor.” Despite the economic recovery in Michigan, the number of ALICE households actually increased 6% from 2010 to 2017, largely due to persistent low wages, reduced work hours, depleted savings and increased costs.⁵ In addition, low unemployment does not mean that everyone has a stable job that pays a living wage. In fact, 61% of jobs in Michigan pay less than \$20 per hour and nearly two-thirds of those jobs pay less than \$15 per hour.⁶ A job that pays \$15 per hour grosses \$30,000 per year, which is less than half of what a family of four needs to meet their daily needs.⁷

² Dickler, *Most Americans live paycheck to paycheck*, CNBC (August 24, 2017), available at <<https://www.cnbc.com/2017/08/24/most-americans-live-paycheck-to-paycheck.html>>.

³ Michigan Association of United Ways, *Alice in Michigan: A Financial Hardship Study* <https://static1.squarespace.com/static/52fbd39ce4b060243dd722d8/t/5c902a7e971a186c0a29dff2/1552951937149/HR19ALICE_Report_MI_Refresh_02.26.19b_Final_Hires+%283%29.pdf> (accessed February 27, 2020).

⁴ *Supra* Note 3.

⁵ *Supra* Note 3.

⁶ *Supra* Note 3.

⁷ *Supra* Note 3.

People living in poverty and ALICE households are hit especially hard by an unforeseen loss of income because they lack assets and often have high amounts of debt. In Michigan, 49% of families do not have enough money to cover expenses for three months in the event of a medical emergency or loss of a job.⁸ Without adequate assets and savings, families lack financial resilience and are often unable to bounce back after a unexpected expenses or loss of income. Therefore, any deprivation of income—even if temporary—can have devastating effects.

Facing an unexpected loss of income, many people are forced to forego critical necessities, such as food and heat. Feeding America reports that 1,369,250 people in Michigan struggle with hunger (1 in 7) and of them, 345,130 are children (1 in 6).⁹ People also struggle to meet their rental obligations or make their mortgage payments, leading to an eviction or foreclosure, which can have long-lasting impacts on their credit and ability to secure future housing. In the wake of financial hardship, many rely on credit cards or high interest loans to make ends meet. Some will turn to payday loans, which have incredibly high interest and fees that can reach over 340% annual percentage rate.¹⁰ A loss of income can also have a negative impact on health, because many will forego preventative care or postpone necessary medical treatment.¹¹

⁸ *Supra* Note 3.

⁹ Feeding America, *Hunger in Michigan* <<https://www.feedingamerica.org/hunger-in-america/michigan>> (accessed February 27, 2020).

¹⁰ Ruark, *Payday lenders hunger for more*, The Alpena News (February 27, 2020) available at <https://mlpp.org/payday-lenders-hungry-for-more/?fbclid=IwAR1HUptxvCceyXn6g1sWQvE_NdKBf9fvtai6_EYG3QOvUmsfqZcrn4sasoU>.

¹¹ Antonisse and Garfield, *The Relationship Between Work and Health: Findings from a Literature Review*, The Kaiser Family Foundation (August 7, 2018) <<https://www.kff.org/medicaid/issue-brief/the-relationship-between-work-and-health-findings-from-a-literature-review/>> (“The effect of unemployment on health has long been an area of research focus, and a substantial body of research from the U.S. and abroad consistently demonstrates a strong association between unemployment and poorer health outcomes... with some evidence suggesting a causal relationship in which unemployment leads to poor health”).

The present case demonstrates that the harm caused by the Agency wrongfully disqualifying individuals from receiving unemployment benefits, garnishing wages and intercepting tax refunds extends far beyond the money that the state took from the plaintiff class and simply returning the money does not fully remedy the wrong. The Agency's egregious actions forced many to go without basic needs, to lose their houses, and even to declare bankruptcy, irreversibly damaging their credit and foreclosing on their ability to buy a home.¹²

Contrary to the Agency's argument, the Michigan Employment Security (MES) Act, MCL 421.1, *et seq*, does not provide Plaintiffs an adequate remedy to address the constitutional violations alleged. In its Application for Leave, the Agency stated:

If a claimant is successful in challenging an Agency adjudication, they could also get back any money collected by the Agency pursuant to that adjudication. This would result in the return of the property a claimant might allege they were deprived of without due process. And as this Court has already found, plaintiffs have received that precise form of relief. Application for Leave, p 30.

Returning the financial resources that the Agency wrongfully took from Plaintiffs begins to address the harm the Agency caused benefit recipients, but it in no way makes them whole. Under the administrative process, Plaintiffs only recover the property that was unlawfully taken from them, not compensation for the other harms that were caused by the unlawful taking. For example, even a favorable outcome in an administrative proceeding challenging alleged unemployment fraud would not award damages to a person who lost their home due to mortgage foreclosure when they were unable to make their mortgage payments because the Agency

¹²Egan, *Did claims of fraud make jobless go bankrupt?*, The Detroit Free Press (January 28, 2017) <<https://www.freep.com/story/news/politics/2017/01/28/jobless-errors-bankruptcies-unemployment/96726584/>> (“Leticia Medrano, of Melvindale, who filed for bankruptcy in August, is a case in point: The agency claimed she was overpaid by \$7,746 in 2010. But by the time Medrano, who had relocated from Lincoln Park, learned of the alleged debt — when her employer started garnishing her wages in 2014 — the bill had swelled to \$38,730, with interest and penalties.”).

wrongfully garnished their wages. Nor can the administrative process, under the MES Act, compensate that person for the costs incurred in moving their family into a new location.

II. Important factors weigh in favor of recognizing a damages remedy in this case, including the public interest and deterring the Agency's irresponsible reliance on faulty computer algorithms.

a. Unemployment insurance is a crucial program that prevents poverty and benefits society as a whole.

Unemployment insurance, like other public benefits such as food assistance, cash assistance, housing assistance and state emergency relief, is a critical part of our state's social safety net. Unemployment insurance protects workers who have lost their employment through no fault of their own by temporarily replacing a portion of their wages. It provides assistance at a crucial time and it can mean the difference between a family weathering the storm after a job loss or spiraling out of control and becoming impoverished. The effects of financial hardship are far-reaching and it often takes a family a very long time to recover from a severe economic blow.

In enacting the MES Act, the legislature found:

Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is a subject of general interest and concern which requires action by the legislature to prevent its spread and to lighten its burden which so often falls with crushing force upon the unemployed worker and his or her family, to the detriment of the welfare of the people of this state. MCL § 421.2(1).

The importance of unemployment insurance has been widely recognized by Michigan courts. Due to the Act's broad purpose, the Michigan Supreme Court ruled that the Employment Security Act should be "liberally construed for the benefit of those involuntarily unemployed."

Noblit v. Marmon Group-Midwest Foundry Div, 386 Mich 652, 654 (1972).

Like other public benefit programs, eligible beneficiaries have a property interest in unemployment benefits and those unjustly deprived of this property right are "condemned to

suffer grievous loss.” *Joint Anti-Fascist Refugee Committee v McGrath*, 341 US 123, 168 (1951). In ruling that due process required recipients of public benefits to be granted a fair hearing before the termination of the benefits, the Supreme Court in *Goldberg v Kelly* reasoned that when a person has no income or other independent resources, their situation becomes “immediately desperate” and they must expend their energy on meeting their daily needs, which impedes on their ability to seek redress from government bureaucracy. *Goldberg v Kelly*, 397 US 254, 264, 90 S Ct 1011, 1018, 25 L Ed 2d 287, 297 (1970).

Unemployment is created by market forces outside of a worker’s control and is inextricably linked to poverty. This is especially true in Michigan, a state that is overly dependent on the manufacturing industry and hit especially hard by economic crises. Additionally, unemployment insurance plays a crucial role in stabilizing our society as a whole. As the Supreme Court in *Kelly* stated with regard to needs-based public assistance, “welfare guards against the societal malaise that may flow from a widespread sense of unjustified frustration and insecurity. Public assistance, then is not mere charity, but a means to ‘promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.’” *Kelly* at 264 (quoting the Preamble to the Constitution of the United States). Similarly, unemployment insurance is an important government-administered program that prevents poverty, and thus, promotes the general welfare.

Given the importance of unemployment benefits in helping families to make ends meet during periods of job loss, it is crucial that recipients due process rights are protected and beneficiaries who are wronged by the Agency’s policies and practices have an avenue to seek redress. Thus, it is in the public interest to protect the due process rights of individuals who are eligible for this invaluable program. The Court of Appeals in *Mays* ruled that the court may

consider “various other factors militating for or against a judicially inferred damage remedy.” *Mays*, 323 Mich App 1 at 66, citing *Smith* 428 Mich App at 648-652. Therefore, CCJ urges this Court to find that allowing damages in this case serves the public interest and that the final factor in the five-part test weighs in favor of allowing a damage remedy in this context.

b. Damages are appropriate in this case to deter the State from irresponsibly deploying computer systems to manage and distribute public benefits without ensuring adequate due process.

Thousands of Michigan residents were harmed due to a State-adopted computer system, which was designed to apply algorithms that treated innocent activities as intentional fraud. Governments across the country are increasingly relying on “algorithmic decision-making” technologies, or “mathematical processes for solving defined problems.”¹³ A recent article in the *Fordham Urban Law Journal* outlines the dangers when governments “purchase and implement big data systems – often without understanding how the technology impacts policy, without providing regulatory oversight, and without accurately informing the public about whether or how the systems are functioning.”¹⁴

Here, the Agency implemented MiDAS without proper testing and without proper oversight, and the results were disastrous. The Agency implemented MiDAS in 2013 to streamline unemployment fraud detection, a year after the Agency laid off one-third of its workforce.¹⁵ In doing so, the State ceded its decision-making authority to the developers who created MiDAS, a completely automated system that made determinations about unemployment

¹³ Valentine, *Artificial Intelligence and Predictive Algorithms: Why Big Data Can Lead to Big Problems: Article: Impoverished Algorithms: Misguided Governments, Flawed Technologies, and Social Control*, 46 *Fordham Urb LJ* 364 (2019).

¹⁴ *Supra*, Note 13 at 371.

¹⁵ Roelofs, *Broken: The human toll of Michigan's unemployment fraud saga*, *Bridge Magazine* (February 7, 2017), available at <<https://www.bridgemi.com/michigan-government/broken-human-toll-michigans-unemployment-fraud-saga>> (“In essence, the computer system and its algorithms replaced human beings, presiding as judge and jury over tens of thousands of unemployment cases.”).

fraud based on computer algorithms with no human review.¹⁶ This was an irresponsible move in the name of fiscal austerity that resulted in financial hardship and the ruin of thousands of Michigan residents.

The Agency conceded that MiDAS had a 93% error rate,¹⁷ which raises the question, why was the system ever implemented in the first place? This calls to mind the problem in *Barry v Lyon*, in which thousands were deprived benefits due to the State's reliance on a computer algorithms and data matching to determine fleeing felon disqualifications. *Barry v Lyon*, 834 F3d 706, 2016 US App LEXIS 15671, 2016 FED App 0208P (6th Cir) (2016). In *Barry*, MDHHS relied on a computerized "match" to disqualify individuals from food assistance by unlawfully treating the existence of an outstanding felony warrant in an individual's name as proof that the person was both fleeing to avoid prosecution or imprisonment and actively sought by law enforcement. *Id.* The computer algorithm that produced the matches in that case was woefully inaccurate, resulting in disqualifications of individuals whose identities had been stolen, as well as individuals who had no idea that a warrant even existed, and those not actively sought by law enforcement.

Here, as in *Barry*, the State took a blatantly unlawful shortcut—in this case by employing a computer algorithm that equated innocent actions with intentional fraud.

It is understandable that the State is employing technology in an effort to efficiently administer public benefits programs. However, it is not acceptable for the State to forego timely and adequate oversight and testing, and to then avoid liability for the human devastation and suffering that improperly-designed and improperly-deployed systems leave in their wake.

Computer systems must not become mere shortcuts for unlawfully depriving property to eligible

¹⁶ *Supra*, Note 13 at 373.

¹⁷ *Supra*, Note 12.

individuals without due process of law. This case demonstrates that the State has failed to ensure that due process rights are protected when adopting automated systems. This case, like the *Barry* case shows that “the computer isn’t always right and deserving individuals wind up losing public aid.”¹⁸ Unfortunately, without timely testing and oversight, computer systems merely become instruments for unlawfully denying state-administered benefits to the detriment of the poor.

Michigan residents must have a means to challenge the state’s policies and practices of relying on computer algorithms to make decisions about important benefits, and the state must be held accountable for its actions or catastrophes like this will continue to happen. When they do, the people who will be harmed are those who can least afford it. Accordingly, CCJ encourages this Court to find that damages are appropriate in this case in order to deter the state from implementing computer algorithms without safeguarding individual due process rights.

CONCLUSION AND RELIEF REQUESTED

This is an egregious case where the state agency tasked with administering a government-administered insurance program, intended to protect Michigan families from poverty in times of joblessness, actually drove people into poverty or further into poverty. The Agency’s actions included unlawfully disqualifying individuals from unemployment insurance, finding fraud where there was none, garnishing wages and intercepting tax refunds, causing dire consequences for thousands of Michigan residents who turned to the Agency for help. CCJ urges this Court to find that this is an appropriate case for damages in order to fully compensate the victims of this irresponsible policy, because they had no adequate administrative remedy to challenge it. In addition, allowing damages would serve the public interest by safeguarding the due process

¹⁸ Baldas, *Court: Michigan stiffed deserving people out of food aid*, The Detroit Free Press (August 16, 2016), available at <<https://www.freep.com/story/news/local/michigan/2016/08/26/court-michigan-food-stamps-crime/89425014/>>.

rights of the unemployed and discouraging the state from implementing untested computer programs to administer benefits.

Respectfully submitted,

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