

**IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA**

**RICHARD WALLS, individually,
DESIREE Del ROMANO, individually,
MIKE LATNER, individually,
and on behalf of all others similarly
situated,**

**CASE NO.: 20-CA- 2020 CA 000802
FLA BAR NO.: 0739685**

Plaintiffs,

v.

**RON DESANTIS, in his official capacity as the
GOVERNOR of the State of Florida, and the
FLORIDA DEPARTMENT OF ECONOMIC
OPPORTUNITY, and DELOITTE
CONSULTING (HOLDING SUB), LLC,**

Defendants.

COMPLAINT

Plaintiffs, RICHARD WALLS, individually, DESIREE Del ROMANO, individually and MIKE LATNER, on behalf of all others similarly situated file this Complaint against RON DESANTIS, in his official capacity as the GOVERNOR of the State of Florida, the FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY, and DELOITTE CONSULTING (HOLDING SUB), LLC, and state:

NATURE OF THE ACTION

1. This is an action brought under the common law of the State of Florida.
2. This action involves claims which are, individually, in excess of Thirty Thousand Dollars (\$30,000.00), exclusive of costs and interest.

THE PARTIES

3. At all times pertinent hereto, Plaintiff, RICHARD WALLS, has been a resident of the State of Florida, residing in Leon County, Florida, and is *sui juris*.

4. At all times pertinent hereto, Plaintiff, DESIREE Del ROMANO, has been a resident of the State of Florida residing in Bay County, Florida, and is *sui juris*.

5. At all times pertinent hereto, Plaintiff, MARK LATNER, has been a resident of the State of Florida, residing in Citrus County, Florida, and is *sui juris*.

6. At all times pertinent hereto, Defendant, RON DESANTIS, in his official capacity as Governor of the State of Florida, is ultimately responsible for ensuring that the unemployment compensation system in the State of Florida works and is accessible to citizens in the state of Florida, like Plaintiffs. DeSantis is *sui juris*.

7. At all times pertinent hereto, Defendant, DEPARTMENT OF ECONOMIC OPPORTUNITY (DEO), is a state agency with statewide jurisdiction, including Leon County, Florida. Defendant DEO is responsible for preparing and maintaining a system for the distribution of unemployment compensation benefits to residents/citizens of the State of Florida and to ensure that the system is accessible to citizens in the state of Florida, like Plaintiffs. DEO is *sui juris*.

8. At all times pertinent hereto, DELOITTE CONSULTING (HOLDING SUB), LLC, has conducted business in the State of Florida and entered into a contract with the State of Florida to provide a workable system for providing unemployment compensation/reemployment assistance to individuals in the state of Florida who were unemployed.

CONDITIONS PRECEDENT

9. All conditions precedent to this action have been satisfied if any.

FACTS

10. Defendants DeSantis and DEO and/or other entities associated with the State of Florida entered into a contract with Defendant Deloitte Consulting, LLP to design and create a system in Florida to implement the mandate and requirements of Chapter 443, Florida Statutes to provide a workable system for providing unemployment compensation/reemployment assistance to individuals in the state of Florida who were unemployed. Upon information and belief, the citizens of the state of Florida have paid over 75 million dollars for this system, known as CONNECT.

11. Defendants DeSantis and DEO had the statutory obligation under §443.1113, Florida Statutes, to pay unemployment compensation benefits to residents/citizens of the State of Florida who qualify for said benefits. The purpose of the unemployment compensation system is to pay compensation to individuals for their unemployment. [See §443.031, Florida Statutes].

12. The Department of Economic Opportunity (Department) administers Florida's Reemployment Assistance (RA)/unemployment Program which provides temporary, partial wage replacement benefits to qualified individuals who are out of work through no fault of their own. The Program's primary goals are to connect claimants to reemployment services, pay RA benefits to qualified workers in an accurate and timely fashion, provide an efficient first-level appeals process to claimants and employers, and promptly register employers liable for the payment of RA taxes or the reimbursement of claims.

13. Pursuant to State law, i.e., §443.1113, Florida, Statutes, based on a system designed by Defendant Deloitte, Defendants DeSantis and DEO launched the Reemployment Assistance Claims and Benefits Information System (RA System) on October 15, 2013. The RA System is a fully integrated Web-based claims management system that includes the following

RA Program functions: initial and continued claims, wage determination, adjudication, appeals, benefit payment control, and program integrity.

14. Claimants, employers, and third-parties can access information about filed claims and communicate with DEO staff through the RA/unemployment compensation System. Six types of users access the RA/unemployment compensation system: claimants, employers, DEO staff, Third-Party Representatives (TPRs), Third-Party Administrators (TPAs), and other State agency staff. The RA System interfaces with various State and Federal systems as needed to process and report data applicable to the RA Program.

15. Individuals who file for RA Program (unemployment) benefits with the State of Florida are referred to as claimants and employers for whom the claimants previously worked are referred to as employers. Generally, claimants can file an automated claim for RA benefits as a first-time claimant if they have not filed for RA benefits before or as a repeat claimant if they have previously filed for RA benefits. When filing a claim, the claimant is guided by the RA System through an automated series of questions, messages, screens, and forms to enter required information in the System to complete the claim application. In addition, the RA System is designed to verify the identity of claimants as part of the completion of a claim application. Once a claim application has been completed in the RA System by the claimant, notices of claims (claim notices) are distributed to employers. A monetary determination is then issued indicating whether and in what amount a claimant is eligible for benefits based on the claimant's employment during the base period of the claim.

16. With the onset of the Coronavirus/COVID-19, hundreds of thousands of workers in the State of Florida became displaced/unemployed with the massive closures of businesses statewide. These workers began using the RA system to obtain unemployment compensation

benefits but the system is a colossal failure. Persons like Plaintiffs named herein have not been able to obtain benefits that they should have been able to obtain due to the gross negligence and/or negligence of Defendants. The system design and/or implementation is a failure.

17. Plaintiff Walls was employed in Leon County, Florida at the time that he was laid off on March 23, 2020, due to the coronavirus pandemic.

18. On March 23, 2020, Plaintiff Walls first attempted to use the system in place under Chapter 443, Florida Statutes, to report his unemployment and to obtain RA/unemployment compensation benefits due to him under this law.

19. From March 23, 2020, to date, April 23, 2020, thirty-one days, Plaintiff Walls has been unable to make contact with anyone employed with Defendant DEO to obtain unemployment compensation benefits.

20. The unemployment site to obtain these benefits is all but unusable and Plaintiff Walls status has been “pending” since March 25, 2020. He has, at times, been able to log onto the unemployment compensation website, however, his efforts have resulted in the site displaying various error messages. One of the error messages directed Plaintiff Walls to call a number, which when called, stated that all lines were busy. There was no message service or call back service. The system then hung up.

21. Plaintiff Del Romano was notified that her hours were going to be reduced in her position with DGS working at the ticket counter for Delta Airlines on March 15, 2020. That same day, March 15, 2020, she applied online for unemployment compensation benefits but the system kept knocking her off and rejecting her application. It took multiple days to get through on the website to submit her application on March 17, 2020. On or around March 28 or 29, 2020, Plaintiff finally talked to a DEO representative for the first time by telephone after holding

for approximately five (5) hours only to be told that the computers were down and none of her questions could be answered. Plaintiff looked at the website hundreds of times and her application for these benefits ultimately showed “pending” deposit on April 22, 2020. As of the date of this filing, Plaintiff Del Romano’s benefits have still not been paid.

22. Mike Latner was laid off from his position on March 20, 2020, as a restaurant worker. He has congestive heart failure. He applied for unemployment compensation benefits on March 22, 2020. It took two weeks from that point and countless hours on his computer to try and claim unemployment compensation benefits to help him support himself and his family.

23. After those two weeks, Plaintiff Latner went online after he was told to check back to see if his request had been approved only to find that his file/application for unemployment compensation benefits had been deleted. After many attempts to refile, due to the website allowing him to log in but then sending him back to the first page of the website multiple times, on April 13, 2020, he was able to file for unemployment compensation benefits again.

24. Per the unemployment website operated by Defendants, Plaintiff Latner was instructed to check back on April 17, 2020, to claim his first week of unemployment. The website was then completely down for the weekend for maintenance. On Saturday, April 18, 2020 Plaintiff Latner attempted to log in again and received a message that the site was down for the weekend and by Monday, April 20, 2020, the site would be back up and he could call in to speak about his claim on that date.

25. When Plaintiff Latner then attempted to log in on April 20, 2020, after several attempts to get past the beginning login page, the site kept directing him back to the first page of the site, just like it had done before the site was taken down to "fix it". After Plaintiff was successful in logging in after approximately six attempts, Plaintiff Latner received a

determination as "ineligible" because he did not make enough money when he was with his employer. This is false. He had been with his employer for over a year and a half as the time of his lay off.

26. To further his attempt to obtain RA/unemployment compensation benefits, Plaintiff Latner also called the number for RA and it said it was not taking any live calls, even though the site said it would. Plaintiff called on more than one occasion and each time got a recording culminating in a being disconnected from the system. To date, Plaintiff Latner has not received benefits.

27. Plaintiffs, and all others similarly situated, were unable to obtain access to the unemployment system to apply for benefits and even after gaining said access, were diverted to another site or have been unable to obtain RA/unemployment compensation benefits rightfully due to them.

28. Plaintiffs and others similarly situated are entitled to apply for benefits, be deemed qualified for benefits, and to receive benefits under Chapter 443, none of which have occurred.

29. Plaintiffs have retained the undersigned to represent their interests in this cause and are obligated to pay a fee for these services. Defendants should be made to pay said fee under the laws referenced above.

CLASS ACTION ALLEGATIONS:

30. Plaintiffs reallege and incorporate herein by reference the foregoing paragraphs 1 through 29.

31. Plaintiffs seek class certification under subsection (b)(2) or, alternatively, (b)(3) of Rule 1.220 against the Defendant.

32. Commonality: Questions of law and fact are common to all members of the class. Specifically, the Plaintiffs' claims arise from the same events or practices or course of conduct by the Defendants which gives rise to the claims of the putative class, and their claims are based upon the same legal theories as those of the putative class. The overarching common issue is whether the Defendants breached their duty of reasonable care to the Plaintiffs and the class and whether Defendants should pay benefits due to Plaintiffs and other class members immediately under Chapter 443, Florida Statutes. The common questions of law and fact at issue include, among others:

a. Payment of unemployment compensation benefits to citizens of the State of Florida;

b. Defendants' failure to maintain adequate unemployment compensation system to pay valid claims for compensation to unemployed citizens in Florida, in fact, some of the most needy citizens due to the COVID-19 pandemic, which has violated Chapter 443;

The answers to these common questions of law and fact are subject to common legal theories and generalized proof.

33. Typicality: Plaintiffs' claims are typical of the claims of the class inasmuch as they arise from the same course of conduct as the claims of the putative class; that is, the Defendants' failure to pay unemployment compensation benefits to unemployed citizens in the state of Florida.

34. Numerosity and Class Definition: it is estimated there are hundreds of thousands of individuals in the putative class. Therefore, the putative class is so numerous that separate joinder of each member is impracticable. The proposed class consists of: all persons in the State

of Florida who have been denied unemployment compensation benefits and/or who have had these benefits delayed.

35. Adequacy of Representation: Plaintiffs will fairly and adequately protect and represent the interests of each member of the class in that they have interests in common with the class, have no conflicts with the class, understand their responsibilities as class representatives, and have retained counsel experienced in the prosecution of complex class action litigation. The Plaintiffs are members of the class they seek to represent.

36. The Defendants have acted on grounds generally applicable to all the members of the class, to wit: they have acted to deny and/or failed to ensure the payment of unemployment compensation benefits to multiples of thousands of citizens in the State of Florida. Accordingly, this action is maintainable under subsection (b)(2) of Rule 1.220.

37. Alternatively, Defendants' failure to pay unemployment compensation benefits as required under Chapter 443, Florida Statutes, raises questions of law and fact common to the Plaintiffs and the class. These questions stated above, predominate over questions affecting only individual members, and class representation is superior to other available methods for the fair and efficient adjudication of the controversy. Accordingly, this action is also maintainable under subsection (b)(3) of Rule 1.220.

NEGLIGENCE

38. Paragraphs 1-37 are realleged and incorporated herein

39. This count sets forth claims against the the Defendants for common law negligence.

40. Defendants knew or should have known that Plaintiffs were within a zone of risk related to the RA benefits sought herein.

41. Defendants owed duties of care to Plaintiffs due to Plaintiffs being unemployed and seeking unemployment compensation/RA benefits. Alternatively, there was a special relationship between Defendants and Plaintiffs because of being unemployed and seeking benefits through CONNECT.

42. Defendants breached their duties of care to Plaintiffs and/or their duties to ensure that Plaintiffs were able to access the RA system to obtain and/or to obtain RA benefits.

43. Plaintiffs' have been injured due to their inability to obtain benefits through the RA system. The proximate cause of Plaintiffs' injuries was the Defendants' negligence and/or gross negligence set forth above, and therefore such negligence and/or gross negligence was the legal cause of Plaintiff's injuries.

44. The actions of the Defendants, and specifically those actions complained of herein, were taken in the performance of "operational" functions, i.e., functions that were not necessary to or inherent in policymaking or planning, that merely reflected secondary decisions as to how policies or plans were to be implemented.

135. As a direct and proximate result of the above unlawful acts and omissions of the Defendants, Plaintiffs sustained physical injury, sustained economic damages, including lost income, sustained emotional pain, anguish, humiliation, insult, indignity, loss of self-esteem, inconvenience and hurt, and is therefore entitled to compensatory damages. These damages occurred in the past, are occurring at present, and are likely to continue into the future. Plaintiffs are also entitled to equitable/injunctive relief under this count, as well as to punitive damages against Defendant Deloitte.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants for the following:

- (a) that process issue and this Court take jurisdiction over this case;
- (b) that this Court grant equitable relief against Defendants under the applicable counts set forth above, mandating Defendants' obedience to the laws enumerated herein and providing other equitable relief to Plaintiff;
- (c) enter judgment against Defendants and for Plaintiff awarding all legally-available general and compensatory damages and economic loss to Plaintiff from Defendants for Defendants' violations of law enumerated herein;
- (d) enter judgment against Defendants and for Plaintiff permanently enjoining Defendants from future violations of law enumerated herein;
- (e) enter judgment against Defendants and for Plaintiff awarding Plaintiff attorney's fees and costs;
- (f) award Plaintiff interest where appropriate; and
- (h) grant such other further relief as being just and proper under the circumstances.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues herein that are so triable.

DATED this 24th day of April 2020.

Respectfully submitted,

/s/ Gautier Kitchen

Gautier Kitchen [FBN 0689793]
KITCHEN LAW FIRM
103 North Meridian Street
Tallahassee, FL 32301
Telephone: (850) 345-7468

/s/ Marie A. Mattox

Marie A. Mattox [FBN 0739685]
Julie Meadows Keefe [FBN 0984132]
MARIE A. MATTOX, P.A.
203 North Gadsden Street
Tallahassee, FL 32301
Telephone: (850) 383-4800
Facsimile: (850) 383-4801

ATTORNEYS FOR PLAINTIFFS