

UAW agrees to sweetheart settlement in Michigan “robo-fraud” scandal

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Last Thursday US District Court Judge Robert H. Cleland signed an order dismissing a lawsuit filed by the United Auto Workers and others in the Michigan unemployment compensation “robo-fraud” scandal after the plaintiffs reached an out-of-court settlement. In the order, the judge referenced a deal reached between lawyers for the UAW, the Sugar Law Center in Detroit and seven individuals who had been wrongly accused of unemployment fraud and representatives of the Michigan State Unemployment Insurance Agency (UIA) and Michigan Talent Investment Agency.

The suit, first filed in spring 2015, was a result of the faulty review of 50,000 UIA cases undertaken by the agency between 2013 and 2015. A computer program regularly falsely flagged unemployed workers as perpetrators of “civil fraud.” However, the settlement leaves many affected workers out in the cold and fails to answer legal issues affecting most of the falsely accused, some who were forced to pay back tens of thousands of dollars.

A separate class action suit filed against the state in September 2015 by Royal Oak attorney Jennifer Lord is still held up in Michigan Claims Court and the Michigan Appeals Court. Those cases relate to workers who received benefits after September 9, 2012 and were part of the false fraud charges.

Most of the facts of the scandal are no longer in dispute. Innocent workers were dunned for applying for or receiving unemployment benefits and forced to pay back as much as 400 percent of the benefits they received. Twelve per cent interest was tacked on to past due amounts that compounded over a time period based on a “look back” done during 2013-2015.

The scandal is an ongoing Kafkaesque nightmare, as many workers were never even aware of the charges against them, much less afforded a chance to defend

themselves until their tax returns and paychecks were subject to state garnishment. One autoworker reported she wasn’t notified of a problem until the summer of 2016 when the state started garnishing her wages at an auto supplier. The alleged UIA debt dated back to a 2012 claim for \$1,000. By 2016 it had grown to \$23,000 with penalties and interest.

By its own recent admission the UIA says most of the unemployment fraud accusations it made against some 40,000 unemployed Michigan workers over the past several years were bogus. Nevertheless, the judge’s order makes clear that the state is admitting no wrongdoing.

The federal order and settlement result in no sanctions and no jail time for state officials. Meanwhile, Governor Rick Snyder, infamous for his role in the Flint water crisis, has tried to deflect blame for the scandal. In January he shuttled one of the main defendants in the federal case, Sharon Moffett-Massey, from her position as director of the unemployment agency to another position in the state unemployment system.

The federal order makes clear that the state is not liable for monetary damages beyond repayment of money the state unfairly collected. When or if the vast majority of the money falsely extorted will be returned is still unsettled.

The settlement ends litigation the UAW has been involved in for more than two years. The sweetheart deal ending the lawsuit comes as 1,300 workers at the General Motors Detroit-Hamtramck assembly plant face layoff in early March and thus will join the unemployment lines.

New Talent Investment Agency/UIA head Wanda Stokes said that many of the mandated changes in the settlement had already have been put in place in the fall

of 2015 at the agency. However, workers contacted recently by *World Socialist Web Site* reporters said they are still facing challenges in collecting money they are owed.

A scathing state Auditor-General's report citing massive deficiencies in Michigan's unemployment agency caused officials to stop using the computer as sole arbiter in UIA cases in August of 2015. Under that system, workers' claims were flagged, charged and dunned, all without human review. Claimants were not given a real opportunity to contest the charges before their assets and paychecks were dunned.

According to the 2014 Auditor General's report, the UIA was found to be answering only ten percent of calls for help from distressed claimants after the UIA laid off 400 workers in cost-cutting efforts in 2013. The state then relied on the unemployment computer claims system named MiDAS to flag claims for "civil fraud."

In the settlement, state officials promised that a live person will now answer a distinct phone number at the UIA for claimants still waiting for resolution of their cases. They indicated the special phone line was necessary because most Michigan unemployment claimants never speak to a person when they call.

The order also contains language ordering state officials to report to the federal court on the results of implementation of changed practices in the agency.

This second tranche of the 2013-2015 bogus fraud cases number about 28,000 and now are under review. Here also a 93 per cent error rate has been found in the cases that have been reviewed by agency personnel so far. The state told the court the review of the second tranche of flagged UIA cases would take up to six months. With a 30-day window after that to pay, according to the court case settlement, it could take seven months for aggrieved workers to get any of their money back.

Claimants owed money by the state still face challenges getting payment. The state said before the federal order came down that they had returned only about \$5.4 million to just 2,571 claimants falsely accused of fraud. On the other hand, the UIA Contingent Fund, where incoming dollars from improper fines leveled in UIA cases composed a substantial part of the revenue, went from \$3.1 million in 2011 to \$160 million in 2016. This was despite diversion of at least ten million dollars from the fund to

the state budget.

Coinciding with the UIA scandal has been an alarming uptick in bankruptcies. The recent settlement is too late to help many workers, who have already lost everything in deals with state collectors.

Huntington Woods bankruptcy attorney Drew Millitello told the *Detroit Free Press* that bankruptcy cases involving the Attorney General of Michigan collecting on claimed UIA debt in bankruptcy court have exploded in number. He told the Detroit newspaper in January of this year: "We never had UIA cases before this happened," and that since the inception of MiDAS, "we see them all the time."

It is unclear if the families who were thrust into bankruptcy after being hit with false fraud claims can recover the tens of thousands of dollars unfairly seized from them by the state under "voluntary settlements." In the same report Royal Oak bankruptcy attorney Shirley Horn said her research showed that between May 15, 2015 and Sept. 29, 2016, the Michigan Attorney General filed at least 752 "adversarial proceedings" in U.S. Bankruptcy Court for the Eastern District of Michigan, to recover alleged overpayment of unemployment insurance benefits of which 403 of nearly 600 cases resolved involved such a consent judgment or settlement.



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