

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

VON KING, DANIELLE JOHNSON,
CHELSEA SHAW, JOY FLOWERS,
SUSAN KOLYNO, JACQUELINE
PERKINS, ARTHUR WILLIAMS,
And JANE/JOHN DOE 1-9,

Plaintiffs,

CIVIL ACTION: 1:21-cv-03082-JPB

V.

STATE OF GEORGIA,
GEORGIA DEPARTMENT OF
LABOR, and COMMISSIONER
MARK BUTLER, in his official
Capacity,

Defendants.

**EMERGENCY MOTION TO WITHDRAW DEFENDANTS' CONSENT TO
PRELIMINARY APPROVAL OF CLASS SETTLEMENT**

COME NOW the State of Georgia, Georgia Department of Labor (“GDOL”), and Commissioner Mark Butler (collectively “Defendants”), Defendants in the above-styled action, by and through counsel, the Attorney General of the State of Georgia, and move this Court to withdraw their consent to the Court’s preliminary approval of class settlement.

By way of background, on January 4, 2022, Plaintiffs’ filed an Amended Complaint for Declaratory and Injunctive Relief alleging that GDOL has violated “certain promptness and due process rights” and seek class certification for three classes: The prompt determination class, the prompt payment class, and the prompt appeal class. (Doc. 20). In response, on January 18, 2022, Defendants filed a Motion to Dismiss Plaintiffs’ Amended Complaint in Lieu of Answer and a renewed Motion to Stay Discovery.¹ (Docs. 22, 23).

On February 4, 2022, Plaintiffs’ filed responses to Defendants’ motions. (Docs. 29, 30). In addition, on February 4, 2022, Plaintiffs’ filed a Motion for Preliminary Injunction requesting that this Court order Defendants to develop a plan to provide prompt appeal hearings related to eligibility determinations for unemployment benefits and a Motion for Certification of the Prompt Appeal Class (Docs. 31-32). Briefing was stayed by this Court at the parties request subsequent to mediation on March 15, 2022.

On April 12, 2022, the Parties participated in a Status Conference in which settlement potential was discussed with the Court. A May 31, 2022, deadline was set for submission of a joint motion for preliminary approval of class settlement

¹ Defendants’ consented to Plaintiffs’ request to conduct 30(b)(6) depositions, which took place in November of 2021.

with a hearing date of June, 6, 2022. These deadlines were extended to June 14, 2022, and June 30, 2022, respectively.

The March 15, 2022, mediation concluded with a preliminary Reporting Agreement. After three months of continued negotiations, the initial Reporting Agreement developed into a proposed Settlement Agreement, which was presented to this Court at a 1:00 hearing on June 30, 2022. Within minutes of the conclusion of the hearing, possibly before, and prior to the filing of a Court Order granting the Motion for Preliminary Approval of Class Settlement, Plaintiffs' counsel issued a press release in direct contradiction to the terms of the proposed Settlement Agreement, which provides: "The Parties shall issue a **joint press release** to media outlets throughout the state that announces the Settlement and provides information on how to access the Notice Content Webpages." (emphasis added, Doc. 43, section 3.2.1, p. 7). The point being that the Parties would announce the Settlement Agreement in a fair and even-handed manner. Plaintiffs' attorneys, Jamie Rush, senior staff attorney at the Southern Poverty Law Center ("SPLC"), and Jason Carter, partner at Bondurant Mixson, & Elmore, LLP, are quoted in the press release. (June 30, 2022, press release attached as Exhibit A).

Due to the indifference exhibited by Plaintiffs' counsel to the terms of the proposed Settlement Agreement, Defendants are unable to continue along the path

of final approval of Class Settlement and, as such, move this Court to withdraw its consent to the preliminary approval.

Respectfully submitted this 1st day of July, 2022.

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BRYAN K. WEBB Deputy Attorney General	743580
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KATHERINE POWERS STOFF Senior Assistant Attorney General	536807
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<u>/s/Kimberly Blue Lewis</u> Kimberly Blue Lewis Senior Assistant Attorney General	451925
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CERTIFICATE OF COMPLIANCE

I do hereby certify that foregoing document was typed in Times New Roman
14 point font in compliance with Local Rule 5.1B.

/s/Kimberly Blue Lewis
KIMBERLY BLUE LEWIS
Senior Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of filing the following CM/ECF participant:

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