

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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BY SUSAN L. CARLSON  
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No. 98633-9

SUPREME COURT OF THE STATE OF WASHINGTON

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UNEMPLOYMENT LAW PROJECT, et al.

Petitioners,

v.

SUZAN LEVINE, COMMISSIONER FOR THE WASHINGTON STATE EMPLOYMENT  
SECURITY DEPARTMENT,

Respondent.

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SUPPLEMENTAL DECLARATION OF JOHN TIRPAK

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THE SHERIDAN LAW FIRM, P.S.

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Attorneys for Petitioners

I, John Tirpak, declare that the following statement is true and correct:

1. The number of calls to the Unemployment Law Project offices, both in Seattle and Spokane, has drastically increased in the past few months. This month, the Seattle office received an average of seventy to hundred calls per day and the Spokane office received an average of thirty-five to forty per day. The calls are from claimants looking for guidance and reasons behind the delay in their claims. Some callers have been waiting since March or April 2020 for their claims to be processed. Some also have reported that they have tried to call the 800 number numerous hundreds of times but were unable to reach anyone. Often, calls drop when someone answers or during the transfer of the call to another department.

2. Callers express anguish and frustration due to dire financial circumstances. Some callers are suffering severe anxiety and even suicidal thoughts as a result. Veterans and victims of domestic violence with Post Traumatic Stress Disorder have had a very difficult time coping with the ongoing daily stress of uncertainty regarding their unemployment claims. Some have explained that they have been waiting since March or April, 2020.

3. Some callers report that when they reach a person at ESD on the 800 number, the issues are not resolved. In some cases, the callers are hung up on. This has happened in many cases in which the caller spoke English as a second language. In some cases, callers have been told that they would have to speak to someone in a different “tier” and the call is transferred. The calls are either dropped while being transferred or the caller is informed that the person at another “tier” cannot help them. Callers to the Unemployment Law Project have reported that when they called the Employment Security Department’s 800 number, they were given another number that did not work or received rude treatment by the Employment Security Department’s representative.

4. The high volume of daily calls has put an enormous strain on the Unemployment Law Project’s resources even with increased staff and many volunteers who came forward to donate their time. Prior to COVID-19, both offices of the Unemployment Law Project had a total of four attorneys, including myself, and one office manager. We have since increased our staffing to accommodate the drastic increase in calls and demands for services. The Seattle office currently has five full-time attorneys, one part-time attorney, and three legal assistants. The Spokane office currently employs one full-time attorney, two part-time attorneys, and one legal assistant. We also have a range of volunteers, including

attorneys, law students, and undergraduates. The volunteer law students are assisting in returning calls and collecting witness declarations in this case.

5. Under normal circumstance, a claimant receives an unemployment denial with clear appeal rights included. The claimant, then, may request a hearing through the e-Services portal, by US mail, or by fax. The typical procedure has been for the Employment Security Department to send the hearing request to the Office of Administrative Hearings (OAH) in a few days. OAH will schedule an administrative hearing via telephone conference with an administrative law judge. The hearing is typically held in a couple of weeks.

6. Recently, callers to the Unemployment Law Project have been receiving notices that are unclear and violate due process rights of the claimants. Overpayment notices do not state the reason for the overpayment or indicate what weeks are at issue. Other denial notices include a list of possible reasons for denial and indicate that the claim is being denied for one of the following generic reasons. Additionally, there was a recent news report that the Employment Security Department is advising fraud victims not to file appeals. This is a bad advice and giving this general advice to all claimants is irresponsible. The generic notices by the Employment Security Department make it impossible for claimants to

know whether such overpayments are the result of fraud. If an appeal is not filed and the deadline is missed, the claimant will have no other recourse than to repay the benefits received. The Employment Security Department collects overpayment with wage garnishment, liens on property, and other methods.

7. The Unemployment Law Project receives calls from people who have requested hearings as long ago as March and April. Many of these claimants have called OAH to check on the status of their appeal but were informed that OAH has not received the hearing requests from the Employment Security Department. Given the number of calls that the Unemployment Law Project is receiving on this issue, it is clear that the Employment Security Department is denying due process by not processing hearing requests in a timely manner. Many callers have contacted the governor's office, their state senators, and state representatives. In a few cases, the elected officials have helped. In many cases, the officeholders tell the claimants that they cannot intervene in an Employment Security Department matter.

8. There are only two ways to apply for unemployment insurance benefits in Washington State. A claimant may use the Employment Security Department's website or the 800 number. Claimants who are English speaking and who have high speed internet have been

more likely to get their claim filed and benefits granted than persons who have had to claim using the 800 number. Lower income people, people of color, and persons who speak English as a second language have been forced to call the 800 number hundreds of times. The lack of staffing and interpretation for 800 number callers has created a situation in which the people who need the unemployment benefits the most are unlikely to receive them.

9. The Employment Security Department administrators have proudly announced that the trust fund has plenty of money and that the system is secure. This is partly due to the fact that thousands of workers have been waiting for their claims to be processed since March.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED this 22nd day of June, 2020 in Seattle, Washington.

*John Tirpak*  
\_\_\_\_\_  
/s/ John Tirpak

**CERTIFICATE OF SERVICE**

I, Tony Dondero, certify under penalty of perjury under the laws of the State of Washington and the United States that, on June 23, 2020, I served the document to which this Certificate is attached to the party listed below in the manner shown.

ROBERT FERGUSON  
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- By United States Mail
- By Legal Messenger
- By Facsimile
- By Overnight Fed Ex Delivery
- By Electronic Mail

Dated this 23rd day of June 2020.

*s/Tony Dondero* \_\_\_\_\_  
Tony Dondero,  
Legal Assistant

**THE SHERIDAN LAW FIRM, P.S.**

**June 23, 2020 - 2:25 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 98633-9  
**Appellate Court Case Title:** Unemployment Law Project et al. v. Suzan Levine

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