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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

AMETHYST PAYNE, IRIS PODESTA-
MIRELES, ANTHONY NAPOLITANO,
ISAAH PAVIA-CRUZ, VICTORIA
WAKED, CHARLES PLOSKI, DARIUSH
NAIMI, TABITHA ASARE, SCOTT
HOWARD, RALPH WYNCOOPON,
ELAINA ABING, and WILLIAM
TURNLEY behalf of themselves and all
others similarly situated,

Case No. CV20-00755
Dept. No. 8

ORDER OF CONTEMPT

Plaintiffs-Petitioners,

vs.

STATE OF NEVADA ex rel NEVADA
DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION
(DETR), HEATHER KORBULIC in her
official capacity only as Nevada Director of
Employment, Training and Rehabilitation,
DENNIS PEREA, in his official capacity as
Deputy Director of DETR, and KIMBERLY
GAA, in her official capacity only as the
Administrator for the Employment Security
Division (ESD); and DOES 1-100,
inclusive,

Defendants-Respondents.

1 **ORDER OF CONTEMPT**

2 This matter came before the Court on December 3, 2020, for a hearing on *Plaintiffs’*-
3 *Petitioners’ Second Motion for Contempt* filed on August 19, 2020.¹ The Court heard argument
4 from counsel and evidence was introduced and admitted, which included testimony from several
5 witnesses. Witnesses offered by Plaintiffs-Petitioners included: Heather Boyd, Steve Kolesnik,
6 and Greg Doherty. In addition, Patricia Allander, Joshua Markhevka, Brian Bracken, David
7 Schmidt, and Shane Ricketts were offered by Defendants-Respondents (herein the “State”).

8 Being fully informed, the Court GRANTS IN PART AND DENIES IN PART *Plaintiffs’*-
9 *Petitioners’ Second Motion for Contempt*.

10 The Court has authority to hold the State in contempt pursuant NRS 34.290.

11 Furthermore,

12 ... civil contempt is said to be remedial in nature, as the sanctions
13 are intended to benefit a party by coercing or compelling the
14 contemnor's future compliance ... Moreover, a civil contempt order
15 is indeterminate or conditional; the contemnor's compliance is all
16 that is sought and with that compliance comes the termination of any
17 sanctions imposed.

18 *Rodriguez v. Eighth Judicial Dist. Court ex rel. County of Clark*, 120 Nev. 798, 805 (2004).

19 Here, the Court finds the State has willfully and/or without just excuse failed to comply
20 with portions of the Court’s *Order of Mandate* dated July 22, 2020. Specifically, the State has
21 failed to resume payment to applicants whose payments were stopped based on the State’s belief
22 that they qualified for other UI, PEUC or SEB benefits, whether in Nevada or elsewhere. This
23 represents more than 9,000 people whose benefits have not resumed pursuant to the *Order of*
24 *Mandate*. The State’s concern that the Court’s *Order of Mandate* may require payments
25 inconsistent with the U.S. Department of Labor’s guidelines was previously considered and
26 rejected by the Court.

27 _____
28 ¹ At the hearing, Plaintiffs-Petitioners indicated they did not seek the Court to address the first
motion in contempt filed on July 29, 2020.

1 On the other hand, the Court finds Plaintiffs-Petitioners have not proven willful failure to
2 comply as to all other bases sought in the contempt motion.²

3 Good cause appearing, THE COURT THUS FINDS the State in civil contempt of Court.

4 As a sanction, the State shall pay a fine in the amount of \$1,000.00, payment of which
5 must be made by check payable to Washoe Legal Services and sent to the following address
6 within forty-five (45) days of the date of this Order.³

7 Washoe Legal Services
8 299 S. Arlington Avenue
9 Reno, NV 89501


10 IT IS FURTHER ORDERED that proof of payment of the sanction ordered herein must
11 be filed in with the Clerk of Court within fifty (50) days of the date of this Order.

12 IT IS FURTHER ORDERED the State must resume payments consistent with this Order
13 and its prior *Order of Mandate* no later than December 24, 2020.

14 IT IS FURTHER ORDERED that a hearing will be held on Thursday, December 31,
15 2020, at 9:00 a.m. PST to assess the State's compliance. Failure to comply may result in further
16 sanctions, including but not limited to an order of incarceration of those with authority to direct
17 full compliance with the Court's Order, and are failing to do so.⁴

18 **IT IS SO ORDERED.**

19 **DATED** this 8 day of December, 2020.

20 
21 BARRY L. BRESLOW
22 District Judge

23 ² This includes those whose payments have not resumed based on justifiable fraud concerns by
24 the State.

25 ³ The Court is aware this varies from the Court's oral pronouncement at the hearing that payment
26 be made to the Clerk of the Court.

27 ⁴ The Court notes that Plaintiffs-Petitioners will not seek to hold the State in violation of this
28 Order on December 31, 2020, if at a minimum, UI, PEUC or SEB payments are being made to
applicants that maintain eligibility. The Court will take that into account if evidence reflects that
has occurred.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCp 5(b), I hereby certify that I am an employee of the Second Judicial
3 District Court of the State of Nevada, County of Washoe; that on this 8 day of December,
4 2020, I electronically filed the following with the Clerk of the Court by using the ECF system
5 which will send a notice of electronic filing to the following:

6 Mark Thierman, Esq.

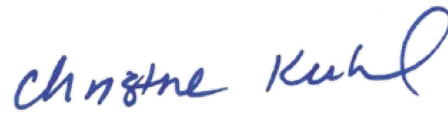
7 Joshua Buck, Esq.

8 Gregory Ott, Esq.

9 Robert Whitney, Esq.

10 Joshua Hendrickson, Esq.

11 Leah Jones, Esq.

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13 _____
14 Judicial Assistant
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