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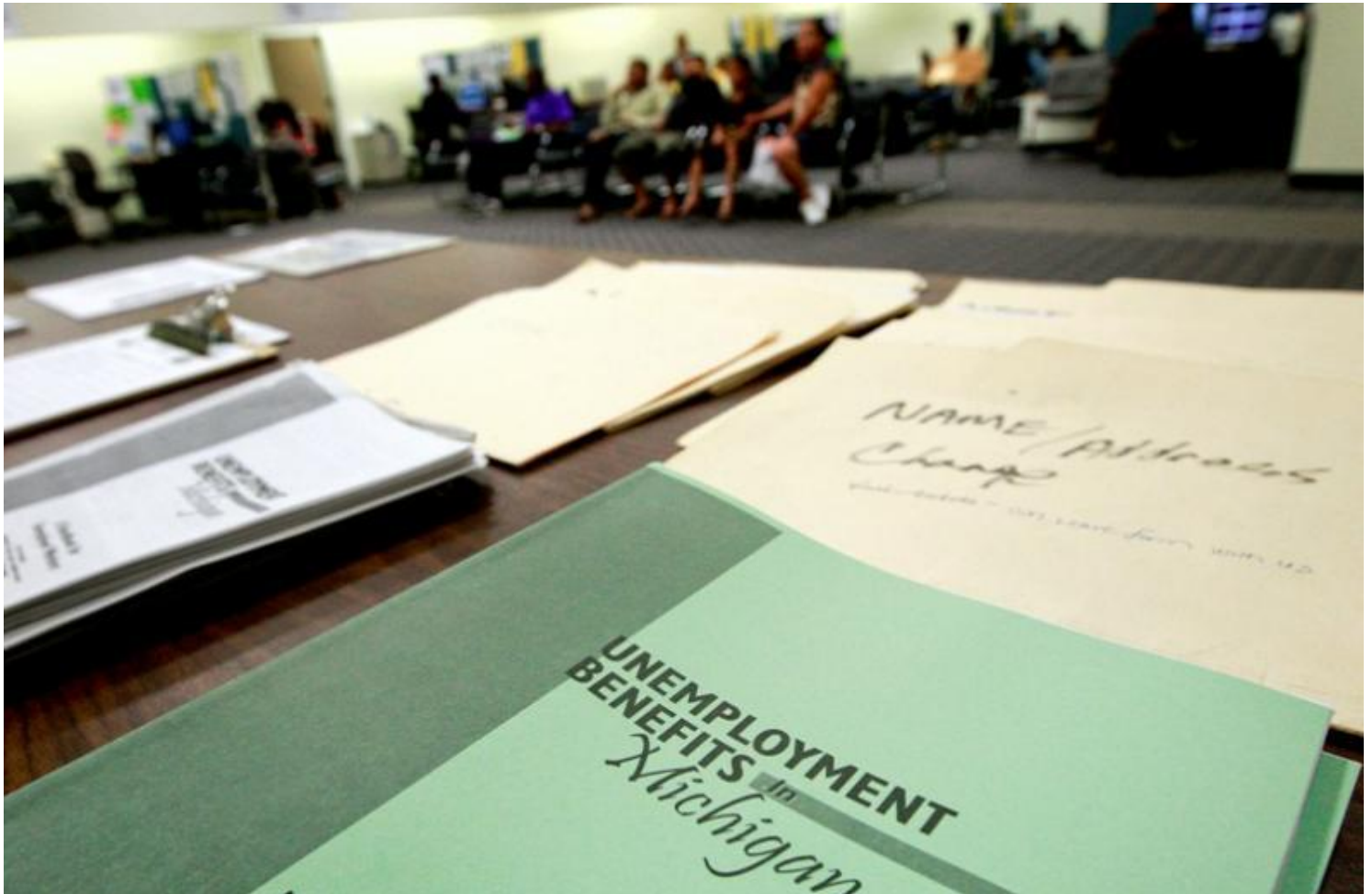
Michigan Supreme Court hears key case on jobless fraud

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Thousands of people were wrongly accused of defrauding the unemployment program

State forced them to repay money, along with substantial penalties, before it acknowledged errors

At issue: Can they sue the state?



Bloomberg

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At issue: Can the thousands of people who were wrongly accused of defrauding the unemployment program sue the state?

The Michigan Supreme Court heard arguments Wednesday in a case that will determine if people who were wrongly accused of defrauding the unemployment program can sue the state.

Under an automated computer system, thousands of people were accused of cheating to get unemployment aid. They were forced to repay money, along with substantial penalties, before the state acknowledged errors.

The issue for the Supreme Court is a technical one: Did plaintiffs wait too long to sue?

The Unemployment Insurance Agency is being represented by Attorney General Bill Schuette's office. Schuette, a Republican candidate for governor, says the computer system "failed Michigan." But he says he must defend the state regardless of whether a law is good.

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Even if plaintiffs are successful, the state still will not have made those individuals whole in terms of funds lost, expunging charges from their records and other damages, officials with the Michigan AFL-CIO and lawyers for the plaintiffs said Tuesday.

The case, *Bauserman v. UIA*, focuses on the technical question of when the plaintiffs should have filed their action. The Court of Appeals held the plaintiffs should have filed when they received their first redetermination from the state, that they had allegedly committed fraud. However, the Court of Claims held they should have filed when they received their second redetermination, which acknowledged that the computer system employed to determine fraud had wrongly found that more than 40,000 had allegedly committed fraud.

The plaintiffs had six months from the date of when the event causing them harm occurred to either sue or file notice of intent to sue the state. When the event occurred is what's up for arguments and the answer from the courts will determine whether they made the six-month window.

The state says the window to sue opened and closed much earlier, when the first fraud notice was sent.

"This is not a bar I made up. This is something the Legislature adopted," Aaron Lindstrom, the state's chief appellate lawyer, told the court Wednesday.

Justice Richard Bernstein was deeply skeptical, asking Lindstrom if he expected average people suddenly accused of unemployment fraud to know when their right to sue might expire.

"Does that really make sense? ... Dealing with this department would be worse than going to the secretary of state," Bernstein said, referring to the agency that handles car registrations and driver's licenses.

An attorney for plaintiffs, Jennifer Lord, said due-process rights were violated when money was seized, an event that occurred long after the initial fraud notice.

"The agency has overturned 40,000 of these (fraud) determinations. That doesn't erase the damages that these people experienced," Lord said.

The case also is spilling into the race for governor because the Department of Attorney General is representing the state and Schuette is the Republican nominee for governor.

Ron Bieber, president of the Michigan AFL-CIO, said workers saw their wages garnished, tax refunds and vehicles seized, and, in some cases, lost their homes when the state tried to collect from them for their alleged fraud. And 186 people were wrongly charged with fraud. Some 1,100 filed for bankruptcy though it is not clear how many would have filed anyway had they not been accused of fraud.

The criminal charges have been dismissed, but Steve Gray, with the University of Michigan Law School Unemployment Insurance Clinic, said they are still working on expunging the records.

Lord, a lawyer with Pitt McGehee Palmer and Rivers who argued the case on Wednesday, said the state is untruthful in suggesting it had returned \$21 million to the workers wrongly accused. She said audited numbers show the state had paid back \$5.9 million and that individuals had gotten repayments that made no sense.

Rebecca Williams, who was charged with fraud, said the experience has affected her terribly. While the charge was dropped, it still appears on her record and has cost her jobs that would pay close to what she had earned as a project manager for General Motors Co.

Plus, she said that while she was forced to repay \$3,800 to the state she has gotten \$1,700 repaid to her. "And I was scared as hell to cash the check," she said, worried the state would try to come back after her.

Bieber questioned why Schuette would pursue dismissal of the case based on the window of time to file. Schuette declined to handle the final appeal of a case dealing with wages deducted from teachers, but he has kept the department on this case. Schuette also recently signaled he **may not defend the state** against the lawsuit from Detroit Mayor Mike Duggan challenging the state's no-fault insurance law. In such cases, departments work with other attorneys in the department walled off from the attorney general or the department obtains outside counsel.

Schuetz spokeswoman Andrea Bitely said the state has a compelling reason to pursue the case and while it may not be Schuetz's preference to oversee the case, the state has a legal defense. She said the plaintiffs failed to file their action in a timely fashion.

And Schuetz issued a statement saying it is, "my responsibility to defend all of Michigan's laws, whether I personally agree or not, and regardless of whether the law is a good one. Tomorrow's hearing ... is one that is difficult for all involved."

He also blasted the MIDAS computer system, which falsely found fraud, which "failed Michigan and all of its citizens."

But Schuetz was criticized by the liberal organization Progress Michigan, which said he was trying to duck his role in the scandal. The group said Schuetz "owns the pain and suffering he's put families through who have only sought justice."

And Lord said the state cannot argue the claims were filed in an untimely fashion because it also sought damages against the individuals, which violated their due process that which are guaranteed by both the U.S. and Michigan constitutions.

Gray said that even if the plaintiffs win before the Supreme Court, those affected are still owed by the state. He hoped the "state's leaders" would find a way to recompense the individuals affected by the false allegations.

– *The Associated Press contributed to this report.*

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