

IN THE SUPERIOR COURT FOR THE COUNTY OF FULTON  
STATE OF GEORGIA

THE SOUTHERN POVERTY LAW  
CENTER,

Plaintiff,  
v.

THE GEORGIA DEPARTMENT OF  
LABOR,

Defendant.

CIVIL ACTION NO. 2021CV347230

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**VERIFIED COMPLAINT TO ENFORCE COMPLIANCE WITH THE GEORGIA  
OPEN RECORDS ACT**

Plaintiff the Southern Poverty Law Center files this Verified Complaint to enforce compliance with the Georgia Open Records Act, O.C.G.A. §§ 50-18-70 et seq., and shows the following to this Court:

**PRELIMINARY STATEMENT**

Throughout the COVID-19 pandemic over the last 12 months, news outlets have reported on the extreme delays that countless unemployed workers in Georgia have continued to experience with the Georgia Department of Labor (the “GDOL” or “Department”) in their process to apply for unemployment insurance benefits.<sup>1</sup> To better understand where in the State’s unemployment insurance system these delays have been occurring, the reasons for the delays, and their severity, on December 8, 2020, Plaintiff

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<sup>1</sup> Natisha Lance, “Getting unemployment benefits still a struggle for some, 1 year after pandemic began,” 11Alive News, Feb. 15, 2021, <http://bit.ly/3r7c3Mu>; Elizabeth Rawlins, “GDOL commissioner responds to calls for investigation into unemployment claims process,” Fox 5 Atlanta, Dec. 24, 2020, <http://bit.ly/3n1TJCy>; Susanna Capelouto, “Backlog Of Appeals For Unemployment Benefits Collides With Georgia Evictions,” WABE, Sept. 1, 2020, <https://bit.ly/3nNh5fA>; Michael E. Kanell, “Paying jobless benefits: Better, but still a struggle after four months,” AJC, July 18, 2020, <https://bit.ly/3oHR6aB>; Christopher Quinn and Matt Kempner, “Georgians ground down by waits for unemployment assistance,” AJC, June 4, 2020, <https://bit.ly/2XVEf9b>;

submitted a written Georgia Open Records Act request to the GDOL for records related to the applications and appeals that the GDOL received and the time lapse experienced by claimants between different stages in the claims process. As detailed in this Verified Complaint, much of this request constitutes data that the GDOL electronically maintains and routinely reports to the U.S. Department of Labor. Plaintiff also requested the GDOL's correspondence with the U.S. Department of Labor about its performance and the policies and practices the Department has issued during the pandemic to address these delays in processing and paying claims.

Despite acknowledging receipt of Plaintiff's request and even communicating its intent to formally respond, the GDOL has never produced the requested records or even responded that the request is subject to any Open Records Act exemptions, willfully violating Georgia's Open Records Act. Plaintiff now files this Verified Complaint to enforce the GDOL's compliance with Georgia Open Records Act law.

### **PARTIES**

1. Plaintiff is a non-profit corporation entitled to enforce the Georgia Open Records Act under O.C.G.A. § 50-18-73(a).
2. Defendant GDOL is an agency of the State of Georgia. It is subject to the Open Records Act under O.C.G.A. § 50-18-70(b).

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction of this Complaint as provided in O.C.G.A. § 50-18-73.
4. Plaintiff the Southern Poverty Law Center is a non-profit corporation entitled to enforce the Georgia Open Records Act under O.C.G.A. § 50-18-73(a).

5. Defendant GDOL is located in Fulton County, Georgia, and is subject to the jurisdiction of this Court.

6. Defendant GDOL may be served through its Commissioner, Mark Butler, at the Georgia Department of Labor, who resides in his official capacity in Fulton County, Atlanta, Georgia, 30303.

### **FACTS**

7. Since the COVID-19 global pandemic hit the State of Georgia in March 2020, it has been well reported that countless Georgians have experienced significant cuts in their employment hours and wages or loss of employment altogether and as a result, have struggled to afford housing, food, utilities, and medical care for themselves and their families for the last year. This has resulted in immeasurable amounts of economic stress, fear, and anxiety for unemployed Georgians and their families throughout the State<sup>2</sup>—despite the intent of the unemployment insurance benefit system to prevent these outcomes.<sup>3</sup>

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<sup>2</sup> See Alex Camarelle, *et al.*, Ga. Budget & Policy Initiative, *Delayed and Denied: Modernization Needed at Georgia DOL to Support Georgia Workers and Economy* (Feb. 26, 2021), <http://bit.ly/3c4K245>; Ray Khalfani, Ga. Budget & Policy Institute, *State of Working Georgia: 2020 COVID Crisis Year-End Review* (Dec. 18, 2020), <http://bit.ly/3o18LK3>; Amanda Aguilar, *Delays in unemployment benefits still plague the jobless in Georgia*, Fox5 Atlanta, Dec. 23, 2020, <http://bit.ly/2KPkBZz>; Christopher Quinn & Matt Kempner, *Georgians ground down by waits for unemployment assistance*, AJC, June 4, 2020, <http://bit.ly/3hQlflD>.

<sup>3</sup> O.C.G.A. § 34-8-2; *see also Caldwell v. Hosp. Auth. of Charlton Co.*, 248 Ga. 887, 899-90 (1982); Chad Stone & William Chen, Ctr. on Budget & Policy Priorities, *Introduction to Unemployment Insurance* (2020), <http://bit.ly/38MFU5Q>; *cf.* Cal. Dep't of Human Res. v. Java, 402 U.S. 121, 131-32 (1971) (“Unemployment benefits provide cash to a newly unemployed worker ‘at a time when otherwise [they] would have nothing to spend,’ serving to maintain the recipient at subsistence levels without the necessity of [their] turning to welfare or private charity.”).

8. In response to the pandemic, Georgia's governor declared a state-wide emergency on March 14, 2020, which he renewed multiple times, including as recently as February 26, 2021, for another 30 days.<sup>4</sup>

9. In response to its increasing awareness of delays experienced by Georgia unemployment insurance benefits ("UIB") applicants, Plaintiff sent the GDOL a Georgia Open Records Act request on December 8, 2020, for public records to related to Georgia's unemployment insurance program as well as Pandemic Unemployment Assistance ("PUA")<sup>5</sup> provided under the CARES Act, from February 1, 2020, through November 30, 2020.

10. Specifically, among others categories, Plaintiffs requested data on the numbers of applications received by the GDOL that had not received an initial determination by a claim's examiner and that had been deemed eligible but not been issued payments; the time lapse between the GDOL's receive of application and issuance of a claim's examiner's determination; and any policies, protocols, guidelines, rules, or procedures regarding the GDOL's processing and payment of regular state unemployment insurance and PUA benefits during the aforementioned period. A copy of Plaintiff's request is attached as Plaintiff's Exhibit 1.

11. Several of the requested categories constitute information the GDOL is routinely required to provide the U.S. Department of Labor.

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<sup>4</sup> See State of Ga. Exec. Order 02.26.21.01, available at <http://bit.ly/3eWwt8H> (select "02.26.21.01," entitled Renewing the Public Health State of Emergency last renewed on February 26, 2021, in response to COVID-19).

<sup>5</sup> PUA is a federal program for self-employed or gig workers, 1099 independent contractors, or those who are otherwise ineligible for regular state UI benefits. Ga. Dep't of Labor, Pandemic Unemployment Assistance (PUA), <http://bit.ly/3b5ZNHM> (last visited Mar. 19, 2021).

12. On December 15, 2020, Defendant GDOL acknowledged receipt of Plaintiff's records request, which it said it had received on December 9, 2020. A copy of Defendant's email acknowledging receipt is attached as Plaintiff's Exhibit 2.

13. In its initial response, the GDOL said it would be able to respond to the request by December 23, 2020. *Id.*

14. On December 23, 2020, Defendant failed to provide any documents in response to Plaintiff's request but said it would respond by December 31, 2020. Plaintiff's Exhibit 3.

15. On December 31, 2020, the GDOL did not provide any documents in response to the request. Indeed, it did not respond at all.

16. On January 4, 2021, Plaintiff emailed the GDOL requesting its response. Plaintiff's Exhibit 4 at 2.

17. The GDOL responded the same day stating that it expected to provide its response as soon as possible. *Id.* at 1-2.

18. In response, Plaintiff clarified that at least two of the requested categories of documents should be readily identifiable and available to be produced pursuant to O.C.G.A. § 50-18-71—namely, copies of any comments or correspondence with the U.S. Department of Labor, in which the GDOL explained variations in reporting to the U.S. Department of Labor from levels during past periods, and any policies, procedures, protocols, or rules on how the GDOL processes and pays claims within the designated time period. *Id.* at 1.

19. The GDOL never replied and has not responded to Plaintiff's request as of the date of filing this Verified Complaint.

20. On January 19, 2021, Plaintiff filed a request with the Georgia Department of Law to mediate the dispute between Plaintiff and the GDOL. A copy of Plaintiff's letter to the Georgia Department of Law is attached at Plaintiff's Exhibit 5. The Department of Law acknowledged receipt of the request but did not provide any other information.

21. Two months later, on March 17, 2021, the Department of Law said it could not mediate Plaintiff's request because it represents state agencies and their communications with those agencies are privileged.

22. To date, Plaintiff still has not received any records or a response from the GDOL.

### **CLAIM FOR RELIEF**

23. Plaintiff re-alleges and incorporates by reference its allegations in the above paragraphs.

24. The Georgia Open Records Act grants a right to the public to inspect and copy public records that are prepared, maintained, and received in the course of operation of a public office or agency. O.C.G.A. § 50-18-70(a)-(b).

25. The GDOL is an agency of the State of Georgia and is therefore subject to the requirements of the Open Records Act under O.C.G.A. § 50-18-70(b).

26. Plaintiff is a non-profit corporation entitled to enforce the Georgia Open Records Act under O.C.G.A. § 50-18-73(a).

27. Plaintiff's request asked for public records as defined in O.C.G.A. § 50-18-70(a), including public data on the numbers of applications received by the GDOL that had not received an initial determination by a claim's examiner and that had been deemed eligible but not been issued payments; the average time lapse between the GDOL's receipt

of applications and issuance of a claim's examiner's determination; any policies, protocols, guidelines, rules, or procedures regarding the GDOL's processing and payment of regular state unemployment insurance and PUA benefits during the aforementioned period; and copies of any comments or correspondence with the U.S. Department of Labor, in which the GDOL explained variations in reporting to the U.S. Department of Labor from levels in past designated periods.

28. The GDOL failed to claim any exemptions to the Open Records Act, as required by O.C.G.A. § 50-18-72(b). Even if the Department had done so, the records are not exempt from disclosure, and the GDOL has no valid legal basis to refuse to disclose the requested records.

29. Plaintiff has given the GDOL well beyond the three-day period to respond to Plaintiff's records request. O.C.G.A. § 50-18-71(b). Accordingly, the GDOL failed to respond to the request in the manner and timeframe prescribed by O.C.G.A. § 50-18-70.

30. In failing to produce the requested public records or otherwise respond to Plaintiff's request, the GDOL violates, and continues to violate, Georgia's Open Records Act, and Plaintiff's statutory rights thereunder. O.C.G.A. § 50-18-70, *et seq.*

31. Plaintiff is therefore entitled to relief as described in the prayers for relief.

WHEREFORE, Plaintiff prays the Court:

- (1) assume jurisdiction over this matter;
- (2) set this matter for a hearing;
- (3) enter an Order granting preliminary and permanent injunctive relief, including an injunction compelling the GDOL to produce the requested public records to Plaintiff without further delay, and requiring Defendant GDOL to waive all

document print, copy, delivery, and other fees associated with complying with Plaintiff's records request;

- (4) enter an Order granting declaratory relief, including a declaration that the GDOL's failure to respond to Plaintiffs' request violates the Open Records Act and that Defendant GDOL is required to produce the public records requested by Plaintiff;
- (5) enter an Order that requires Defendant GDOL to pay Plaintiff all reasonable attorney's fees and costs that it has incurred in filing this action; and
- (6) grant such further relief as the Court deems just and proper.

Respectfully submitted this the 22 day of March, 2021.

/s/ Emily C. R. Early

Emily Early

Georgia Bar No. 810206

The Southern Poverty Law Center

P.O. Box 1287

Decatur, Georgia 30031-1287

Tel.: 404-521-6700

[emily.early@splcenter.org](mailto:emily.early@splcenter.org)

*Attorney for Plaintiff the Southern Poverty Law Center*



# **EXHIBIT**

**1**

## Wingo Smith

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**From:** Wingo Smith  
**Sent:** Tuesday, December 8, 2020 6:12 PM  
**To:** LSO@gdol.ga.gov  
**Subject:** Open Records Request  
**Attachments:** 2020-12-08 GA DOL ORR-signed.pdf

Good evening,

I have attached a request for records under the Georgia Open Records Act. If you have any trouble opening the attachment or would like to discuss the request, please call me at (404) 783-1777 or email me at this address.

Thank you very much for your time. I hope you have a great evening.

Best regards,  
Wingo Smith



**Wingo Smith** *he/him/his*  
Regional Policy Analyst | Economic Justice  
Southern Poverty Law Center  
T 334.956.8200 C 404.783.1777  
[wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org) | [www.splcenter.org](http://www.splcenter.org)

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Sent via email to [LSO@gdol.ga.gov](mailto:LSO@gdol.ga.gov)

Georgia Department of Labor  
UI Legal Unit  
Suite 826  
148 Andrew Young International Blvd., NE  
Atlanta, Georgia 30303

December 8, 2020

**Re: Open Records Request**

Dear Madam or Sir:

Pursuant to Georgia's Open Records Act, we request the following records related to Georgia's unemployment insurance program as well as Pandemic Unemployment Assistance provided under the CARES Act during the period beginning on February 1, 2020, through November 30, 2020.

1. For the state unemployment insurance program and pandemic unemployment assistance, please provide the following information for each program by month:
  - a. The number of applications received by the Department;
  - b. The number of applications received by the Department that have not had an initial determination by a claim's examiner;
  - c. The number of applications received by the Department that have been deemed eligible, but the claimant has not been paid; and
  - d. The number of appeals to the appeals tribunal by party appealing (i.e. claimant or employer).
2. For the state unemployment insurance program and pandemic unemployment assistance, please provide the following information about the time lapse between when the Department receives an application and the claims examiner's determination on that application for each program by month:
  - a. Average and median times between applications and a claims examiner's determination;
  - b. The percentage of applications in which there was no claims examiner's determination within 14 days of the claims date; and
  - c. The percentage of applications for which there is still no claims examiner's determination.
3. For the state unemployment insurance program and pandemic unemployment assistance, please provide the following information about the payment of eligible claims following a claim examiner's determination made on the applications received by the Department for each program by month:

- a. Average and median times between the application date and the first payment of an eligible claim for applications; and
  - b. Percentage of eligible claims where the first payment was made within 48 hours of the claims examiner's determination for applications.
4. For the state unemployment insurance program and pandemic unemployment assistance, please provide the following records related to appeals received by the Department to the appeals tribunal for each program by month.
  - a. Average and median times between when the Department receives an appeal and holds a hearing;
  - b. Average and median times between when the Department receives an appeal and the date of decision by the appeals; and
  - c. Average and median times between when the Department receives an application and the date of decision by the appeals tribunal.
5. For the state unemployment insurance program and pandemic unemployment assistance, please provide copies of any comments or correspondence with the U.S. Department of Labor, including but not limited to those in submissions of ETA 9050-9057, in which the Georgia Department of Labor explained significant variations in its reporting to the US DOL from levels in the prior period or the same period one year ago.
6. Please provide the Department's policies, procedures, protocols, guidelines, or rules concerning how it processes and pays claims, including claims that are appealed, for Georgia's state unemployment insurance program benefits and pandemic unemployment assistance. If the policies, procedures, protocols, guidelines, or rules have changed since February 1, 2020, please include any correspondence related to how those changes were made and communicated to the Department's employees.

Because SPLC is a non-profit organization, we request that the Department waive the cost of producing these records. Because we are unfamiliar with your record keeping system, we will gladly work with you to find the most cost-efficient way of retrieving these records. As part of that effort, we request electronic or digital copies of the records you provide. If the Department is not willing to waive the costs and the request is projected to exceed \$100, please provide us with an estimate of the cost and how you came to calculate it.

Finally, we ask that the Department provide the records to my attention at [wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org) within three (3) business days of your receipt of this letter.

Thank you for your time and attention to these requests. We look forward to your reply.

Sincerely,

*Wingo Smith*

Wingo F. Smith  
Regional Policy Analyst

# **EXHIBIT**

**2**

## Wingo Smith

---

**From:** Elizabeth DeJanes <Elizabeth.DeJanes@gdol.ga.gov>  
**Sent:** Tuesday, December 15, 2020 3:51 PM  
**To:** Wingo Smith  
**Subject:** Open Records Request - Georgia Department of Labor

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Wingo, this email is to acknowledge receipt of your open records request received December 9, 2020 and to advise you that the Georgia Department of Labor (GDOL) is conducting a review to determine what records, if any, it may have that are responsive to your request and the cost to produce them. As your request is a rather expansive search, it is anticipated that GDOL will be able to provide you with the number of such documents, if any, and the costs to copy such documents by December 23, 2020. Unless you advise to the contrary, the response will be sent to the above email address.

Should you have any questions or concerns, please contact me via email at [Elizabeth.dejanes@gdol.ga.gov](mailto:Elizabeth.dejanes@gdol.ga.gov).

Best regards,

Liz de Janes

Legal Services Unit

\*\*\* GEORGIA DEPARTMENT OF LABOR \*\*\*

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Your cooperation is appreciated.

# **EXHIBIT**

**3**

## Wingo Smith

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**From:** Elizabeth DeJanes <Elizabeth.DeJanes@gdol.ga.gov>  
**Sent:** Wednesday, December 23, 2020 5:03 PM  
**To:** Wingo Smith  
**Subject:** RE: Open Records Request - Georgia Department of Labor

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Wingo, this email is to advise you that we anticipate a response to you by December 31<sup>st</sup>. Thank you for your patience.

Enjoy your holidays!

Best regards,

Liz de Janes  
Legal Services Unit

---

**From:** Elizabeth DeJanes  
**Sent:** Tuesday, December 15, 2020 3:51 PM  
**To:** wingo.smith@splcenter.org  
**Subject:** Open Records Request - Georgia Department of Labor

Dear Mr. Wingo, this email is to acknowledge receipt of your open records request received December 9, 2020 and to advise you that the Georgia Department of Labor (GDOL) is conducting a review to determine what records, if any, it may have that are responsive to your request and the cost to produce them. As your request is a rather expansive search, it is anticipated that GDOL will be able to provide you with the number of such documents, if any, and the costs to copy such documents by December 23, 2020. Unless you advise to the contrary, the response will be sent to the above email address.

Should you have any questions or concerns, please contact me via email at [Elizabeth.dejanes@gdol.ga.gov](mailto:Elizabeth.dejanes@gdol.ga.gov).

Best regards,

Liz de Janes  
Legal Services Unit

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# **EXHIBIT**

**4**

## Wingo Smith

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**From:** Wingo Smith  
**Sent:** Monday, January 4, 2021 5:48 PM  
**To:** Elizabeth DeJanes  
**Subject:** RE: Open Records Request - Georgia Department of Labor

Thanks, Liz! It's always nice to be away from my virtual office for a few days. I hope you had the opportunity to relax and unplug from the DOL over the holiday as well.

I appreciate you getting back to me today. Is there a chance that you would produce documents with your response? As I understand it, "In those instances where some, but not all, records are available within three business days, an agency shall make available within that period those records that can be located and produced." O.C.G.A. § 50-18-71.

In particular, I think requests 5 and 6 should have readily identifiable documents. For convenience, those requests are below.

5. For the state unemployment insurance program and pandemic unemployment assistance, please provide copies of any comments or correspondence with the U.S. Department of Labor, including but not limited to those in submissions of ETA 9050-9057, in which the Georgia Department of Labor explained significant variations in its reporting to the US DOL from levels in the prior period or the same period one year ago.

6. Please provide the Department's policies, procedures, protocols, guidelines, or rules concerning how it processes and pays claims, including claims that are appealed, for Georgia's state unemployment insurance program benefits and pandemic unemployment assistance. If the policies, procedures, protocols, guidelines, or rules have changed since February 1, 2020, please include any correspondence related to how those changes were made and communicated to the Department's employees.

Thank you again and I hope your week is off to a good start.

Best,  
Wingo



**Wingo Smith** *he/him/his*  
Regional Policy Analyst | Economic Justice  
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[wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org) | [www.splcenter.org](http://www.splcenter.org)

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**From:** Elizabeth DeJanes <Elizabeth.DeJanes@gdol.ga.gov>  
**Sent:** Monday, January 4, 2021 5:34 PM  
**To:** Wingo Smith <wingo.smith@splcenter.org>  
**Subject:** RE: Open Records Request - Georgia Department of Labor

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Wingo, I hope you enjoyed your holidays! I apologize for the delay, but it is taking a little longer than I anticipated. I will get a response to you as soon as possible. Hopefully, in the next day or so.

I appreciate your patience.

Kind regards,

Liz

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**From:** Wingo Smith <[wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org)>  
**Sent:** Monday, January 4, 2021 1:22 PM  
**To:** Elizabeth DeJanes <[Elizabeth.DeJanes@gdol.ga.gov](mailto:Elizabeth.DeJanes@gdol.ga.gov)>  
**Subject:** RE: Open Records Request - Georgia Department of Labor

Good afternoon and happy New Year, Ms. DeJanes.

I did not receive a response on our open records request. If it was sent on December 31, would you forward it to me?

Many thanks,  
Wingo



**Wingo Smith** he/him/his  
Regional Policy Analyst | Economic Justice  
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[wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org) | [www.splcenter.org](http://www.splcenter.org)

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**From:** Elizabeth DeJanes <[Elizabeth.DeJanes@gdol.ga.gov](mailto:Elizabeth.DeJanes@gdol.ga.gov)>  
**Sent:** Wednesday, December 23, 2020 5:03 PM  
**To:** Wingo Smith <[wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org)>  
**Subject:** RE: Open Records Request - Georgia Department of Labor

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Dear Mr. Wingo, this email is to advise you that we anticipate a response to you by December 31<sup>st</sup>. Thank you for your patience.

Enjoy your holidays!

Best regards,

Liz de Janes  
Legal Services Unit

---

**From:** Elizabeth DeJanes  
**Sent:** Tuesday, December 15, 2020 3:51 PM  
**To:** [wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org)  
**Subject:** Open Records Request - Georgia Department of Labor

Dear Mr. Wingo, this email is to acknowledge receipt of your open records request received December 9, 2020 and to advise you that the Georgia Department of Labor (GDOL) is conducting a review to determine what records, if any, it may have that are responsive to your request and the cost to produce them. As your request is a rather expansive search, it is anticipated that GDOL will be able to provide you with the number of such documents, if any, and the costs to copy such documents by December 23, 2020. Unless you advise to the contrary, the response will be sent to the above email address.

Should you have any questions or concerns, please contact me via email at [Elizabeth.dejanes@gdol.ga.gov](mailto:Elizabeth.dejanes@gdol.ga.gov).

Best regards,

Liz de Janes

Legal Services Unit

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Your cooperation is appreciated.

# **EXHIBIT**

**5**

## Wingo Smith

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**From:** Wingo Smith  
**Sent:** Tuesday, January 19, 2021 9:22 AM  
**To:** jcolangelo@law.ga.gov  
**Subject:** Open Records Complaint  
**Attachments:** 2020-12-08 GA DOL ORR-signed.pdf; 2021-01-19 FINAL Letter to Georgia AG re ORR Complaint-signed.pdf

Good morning, Ms. Colangelo.

I submitted an online complaint and attached is a copy of the complaint and our original request to the Department of Labor. Should you need anything else, please do not hesitate to email me or call me at (404) 783-1777.

Have a great week and I look forward to talking with you soon.

Best regards,  
Wingo Smith



**Wingo Smith** he/him/his  
Regional Policy Analyst | Economic Justice  
Southern Poverty Law Center  
T 334.956.8200 C 404.783.1777  
[wingo.smith@splcenter.org](mailto:wingo.smith@splcenter.org) | [www.splcenter.org](http://www.splcenter.org)

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Sent via online form and email to: [jcolangelo@law.ga.gov](mailto:jcolangelo@law.ga.gov)

January 19, 2021

**Jennifer Colangelo**

Georgia Department of Law  
40 Capitol Square, SW  
Atlanta, GA 30334

RE: Open Records Act Complaint

Dear Ms. Colangelo:

I am writing to request that the Department of Law mediate a dispute with the Georgia Department of Labor (the “Department”) after it failed to comply with Georgia’s Open Records Act. Attached with this letter is our request to the Department. I will briefly summarize the timeline of events below; however, the primary issue is that for more than a month, the Department has not provided any documents or a formal response explaining why no documents could be provided within the time period provided in O.C.G.A. § 50-18-71(b)(1)(A).

Throughout the pandemic news outlets have reported on the extremely long delays workers in Georgia have experienced after applying for unemployment benefits.<sup>1</sup> To illuminate where in the process these delays were occurring and how severe the delays were, on December 8, 2020, we requested records from the Department about the applications and appeals it received and the time lapse experienced by claimants between different stages in the claims process. This is information that the Department keeps electronically and reports to U.S. Department of Labor on a routine basis. In addition, we requested the Department’s correspondence with the U.S. Department of Labor about its performance and the policies the Department has issued during the pandemic to address these delays in processing and paying claims.

On December 15, 2020, the Department acknowledged receipt of the request on December 9, 2020. Initially, the Department said it would respond by December 23, 2020. On December 23, it extended its proposed response to December 31, 2020. It did not respond to the open records request on December 31.

On January 4, 2021, I sent an email to the Department requesting its response. That same day, the Department replied that the response was taking longer than anticipated and that it expected to provide

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<sup>1</sup> Christopher Quinn and Matt Kempner, “Georgians ground down by waits for unemployment assistance,” AJC, June 4, 2020, <https://bit.ly/2XVEf9b>; Michael E. Kanell, “Paying jobless benefits: Better, but still a struggle after four months,” AJC, July 18, 2020, <https://bit.ly/3oHR6aB>; Susan Capelouto, “Backlog Of Appeals For Unemployment Benefits Collides With Georgia Evictions,” WABE, Sept. 1, 2020, <https://bit.ly/3nNh5fA>; Elizabeth Rawlins, “GDOL commissioner responds to calls for investigation into unemployment claims process,” Fox 5 Atlanta, Dec. 24, 2020, <http://bit.ly/3n1TjCy>.

the response as soon as possible, likely in the next day or so. I asked for documents that were readily available to be produced pursuant to O.C.G.A. § 50-18-71. In that email I identified two requests, the correspondence it had with the U.S. Department of Labor and the policies that it employed during the pandemic, which should have documents that the Department could identify and produce immediately. The Department never replied to that email and to date has not responded to the open records request.

The requests we sent exemplify the Open Records Act's public policy that "public access to public records should be encouraged to foster confidence in government and so that the public can evaluate the expenditure of public funds and the efficient and proper functioning of its institutions." [O.C.G.A. § 50-18-70](#). The delay and failure to provide any documents is a clear violation of the Department's duty under the Act.

We appreciate your attention and assistance to resolve this matter. On January 6, 2021, the Southern Poverty Law Center in partnership with Georgia Legal Services, and Atlanta Legal Aid Society, filed a lawsuit on behalf of six plaintiffs against Commissioner Mark Butler in the Fulton County Superior Court, Case No. 2021CV344333. We will forward a copy of this complaint to counsel for Commissioner Butler once counsel makes an appearance in the pending case.

Sincerely,

*Wingo Smith*

Wingo F. Smith  
Regional Policy Analyst



IN THE SUPERIOR COURT FOR THE COUNTY OF FULTON  
STATE OF GEORGIA

THE SOUTHERN POVERTY LAW  
CENTER,

Plaintiff,  
v.

THE GEORGIA DEPARTMENT OF  
LABOR,

Defendant.

CIVIL ACTION NO. 2021CV347230

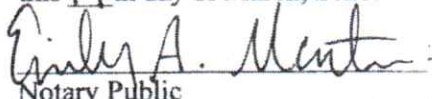
VERIFICATION

Personally appeared before the undersigned party authorized to administer oaths,  
WINGO SMITH, who states under oath, on behalf of Plaintiff the Southern Poverty Law Center,  
that the facts stated in the Verified Complaint in the above-styled action are true and correct  
according to his personal knowledge.



Wingo Smith  
Regional Policy Analyst, Plaintiff Southern Poverty Law  
Center

Sworn to and subscribed before me  
this 19th day of March, 2021.



Notary Public

My Commission Expires: 01/03/2022

