

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

KAREN ANDREAS-MOSES, LISA MORGAN,
ELIZABETH WAGNER, and
JACQUELINE WRIGHT, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

HARTFORD FIRE INSURANCE COMPANY,

Defendant.

CASE NO.: 5:16-CV-1387 (BKS/DEP)

CLASS ACTION
COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs KAREN ANDREAS-MOSES, LISA MORGAN, ELIZABETH WAGNER and JACQUELINE WRIGHT (“Plaintiffs”), by their attorneys, on behalf of themselves and all others similarly situated, respectfully allege upon knowledge as to themselves and upon information and belief as to all other matters, the following:

INTRODUCTION

1. Plaintiffs are Analysts formerly and/or currently employed by Defendant to process long and/or short term disability claims submitted by clients of Defendant, who performed work for Defendant in the state of New York, and who reported to Defendant’s location in Onondaga County, New York until in or around December 2013.

2. As used in this pleading, the term Analyst(s) refers to all employees of Defendant who process long and/or short term disability claims for Defendant in the Group Benefits or Group Reinsurance Departments, including, but not limited to the titles of STD III, STD Claims Analyst III, LTD III, LTD IV, LTD V, LTD Claims Analyst, LTD Senior Claims Analyst, LTD Specialty Claims Analyst, LTD CAR I, LTD CAR II, LTD CAR III, LTD Continuing Ability Review I,

LTD Continuing Ability Review II, LTD Continuing Ability Review III, and any employees of Defendant performing substantially the same work as employees with those titles during the Class Period.

3. Plaintiffs bring this action on behalf of themselves and a class of similarly situated former and current employees, to seek redress for systematic and class-wide failure to pay overtime compensation in violation of New York Labor Law against HARTFORD FIRE INSURANCE COMPANY (“Hartford” or “Defendant”).

JURISDICTION AND VENUE

4. This Court has jurisdiction over the instant action pursuant to 28 U.S.C. § 1332(a) as complete diversity exists as to all Plaintiffs and Defendant and the amount in controversy exceeds \$75,000, and alternatively, under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d) as one or more members of the class of Plaintiffs is a citizen of a State different from Defendant, the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, Defendant is not a State, State Official, or other governmental entity against whom the Court may be foreclosed from ordering relief, and the number of members of all proposed plaintiff classes in the aggregate is at least 100.

5. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391 as a substantial part of the events or omissions giving rise to the instant action occurred in Syracuse, New York.

PARTIES

6. Plaintiff KAREN ANDREAS-MOSES (“Andreas-Moses”), an individual *sui juris* residing in Homer, New York, is an Analyst employed by Defendant from approximately January 2007 through the present, who performed work for Defendant in the state of New York, reported

to Defendant's Syracuse, New York location until December 2013, and who processed insurance claims submitted by clients of Defendant.

7. Plaintiff LISA MORGAN ("Morgan"), an individual *sui juris* residing in Central Square, New York, was an Analyst employed by Defendant from approximately 1991 to October 2014, who performed work for Defendant in the state of New York, who reported to Defendant's Syracuse, New York location until December 2013, and who processed insurance claims submitted by clients of Defendant.

8. Plaintiff ELIZABETH WAGNER ("Wagner"), an individual *sui juris* residing in Syracuse, New York, is an Analyst employed by Defendant from approximately April 2007 through the present, who performed work for Defendant in the state of New York, who reported to Defendant's Syracuse, New York location until December 2013, and who processed insurance claims submitted by clients of Defendant.

9. Plaintiff JACQUELINE WRIGHT ("Wright"), an individual *sui juris* residing in Syracuse, New York, is an Analyst employed by Defendant from approximately July 1996 through the present, who performed work for Defendant in the state of New York, who reported to Defendant's Syracuse, New York location until December 2013, and who processed insurance claims submitted by clients of Defendant.

10. Defendant Hartford, a Connecticut corporation with its principal place of business in Hartford, Connecticut, is a business who, at all relevant times to this instant action, operated in Onondaga County, New York.

11. At all relevant times to this instant action, Plaintiffs and the Class were "employees" covered by the New York Labor Law, and Defendant was an "employer" of Plaintiffs

and the Class of Analysts they seek to represent, as those terms are defined by New York Labor Law §§ 651(5) and (6), 190(2) and (3) and applicable regulations, 12 NYCRR § 142-2.14.

CLASS ACTION ALLEGATIONS

12. Plaintiffs bring this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following class:

All employees of Defendant who process long and/or short term disability claims for Defendant in the Group Benefits or Group Reinsurance Departments, including, but not limited to the titles of LTD III, LTD IV, LTD V, LTD Claims Analyst, LTD Senior Claim Analyst, LTD Specialty Analyst, LTD Continuing Ability Review I, LTD Continuing Ability Review II, LTD Continuing Ability Review III, and any employees of Defendant performing substantially the same work as employees with those titles during the Class Period and who were paid a salary, but did not receive overtime compensation for hours worked in excess of forty (40) hours in a single workweek, and who performed work for Defendant in the state of New York from November 2010 through the present (“Class Period”).

13. Plaintiffs do not yet know the exact size of the Class and such information is within the exclusive control of Defendant. However, based on the nature of business involved, Plaintiffs believe that the total number of Class members is at least one hundred (100) persons, and that the members of the Class are located throughout the United States. As such, joinder of all members of the Class would be impracticable.

14. Plaintiffs will fairly and adequately protect the interests of the Class members, and have retained counsel experienced and competent in labor and employment law, and class action litigation. Plaintiffs have no interests which are antagonistic to those of other Class members.

15. Plaintiffs’ claims are typical of the claims of the Class in that each Plaintiff worked for Defendant as an Analyst, each Plaintiff was misclassified as exempt under the New York Labor Law, Defendant failed to pay each Plaintiff overtime compensation for all hours worked in excess of forty (40) hours in a single workweek, and each Plaintiff was harmed by Defendant’s failure to pay the overtime compensation due and owing.

16. Defendant has acted or refused to act on grounds that apply generally to the Class in that Defendant has misclassified all Class members and failed to pay overtime compensation to all Class members.

17. The rights of Plaintiffs and the Class members involve common questions of law and fact that would predominate over questions affecting only individual members of the Class.

18. The questions of law and fact common within the Class include, but are not limited to:

- a. whether Defendant's classification of Plaintiffs and Class members as exempt from the overtime requirements of the New York Labor Law was proper; and
- b. whether Defendant's failure to pay overtime compensation to all Plaintiffs and Class members violated the New York Labor Law.

19. Class action treatment is superior to the alternatives, if any, for the fair and efficient adjudication of this controversy, because it permits a large number of injured persons to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence and effort.

STATEMENT OF FACTS

20. Plaintiffs are Analysts formerly and/or currently employed by Defendant to process long and/or short term disability claims submitted by clients of Defendant, and who performed work for Defendant in the State of New York between November 2010 through the present.

21. While employed by Defendant, Plaintiffs regularly worked hours in excess of forty (40) hours in a single workweek.

22. Plaintiff Andreas-Moses was hired by Defendant in January 2007 and worked at Defendant's Syracuse, New York location from her hire date until in or around December 2013.

From November 2010 through December 2013, Plaintiff Andreas-Moses was paid an annual salary of approximately \$44,000. Although she regularly worked weeks in excess of forty (40) hours in a single workweek, Andreas-Moses was not paid the proper overtime premium by Defendant. Rather, she was paid only her salary.

23. Plaintiff Morgan From approximately November 2010 to December 2013, was paid a salary of \$54,000. During her employment, Morgan regularly worked more than eight (8) hours per day. Although she regularly worked weeks in excess of forty (40) hours in a single workweek, Morgan was not paid the proper overtime premium by Defendant. Rather, she was paid only her salary.

24. Plaintiff Wagner was hired by Defendant in April 2007 and worked at Defendant's Syracuse, New York location from her hire date until in or around December 2013. From November 2010 through December 2013, Wagner was paid an annual salary of approximately \$45,000. Although she regularly worked weeks in excess of forty (40) hours in a single workweek, Wagner was not paid the proper overtime premium by Defendant. Rather, she was paid only her salary.

25. Plaintiff Wright was hired by Defendant in July 1996 and worked at Defendant's Syracuse, New York location from her hire date until in or around December 2013. From November 2010 through December 2013, Plaintiff Andreas-Moses was paid an annual salary of approximately \$50,000. Although she regularly worked weeks in excess of forty (40) hours in a single workweek, Wright was not paid the proper overtime premium by Defendant. Rather, she was paid only her salary.

26. Defendant controls the hours, salary, assignments, and schedules of the Plaintiffs and Class members.

27. Defendant, as a matter of policy and practice, willfully and intentionally failed to pay Plaintiffs and Class members one and one half (1½) times the regular rate for work in excess of forty (40) hours in a single workweek, as is required pursuant to the New York Labor Law and regulations.

28. Defendant, as a matter of policy and practice, willfully and intentionally failed to provide Plaintiffs and Class members with a statement concurrent with each payment of wages listing the number of regular hours worked per week as required by the New York Labor Law.

29. Defendant, as a matter of policy and practice, willfully and intentionally failed to provide Plaintiffs and Class members with a statement concurrent with each payment of wages listing the number of overtime hours worked per week as required by the New York Labor Law.

COUNT I
New York Labor Law: Unpaid Overtime Wages

30. Plaintiffs repeat and reallege paragraphs 1 through 29 above as if fully set forth herein.

31. Throughout the Class Period, Plaintiffs and Class members were “employees” covered by the New York Labor Law, and Defendant was an “employer” of Plaintiffs and the Class, as those terms are defined by New York Labor Law §§ 651(5) and (6), 190(2) and (3) and applicable regulations, 12 NYCRR § 142-2.14.

32. Throughout the Class Period, Defendant failed to pay Plaintiffs and Class members overtime wages of not less than one and one-half (1½) times their regular hourly rate for each hour worked in excess of forty (40) hours in a single workweek in violation of New York Labor Law Article 19, § 650, *et seq.*, and 12 NYCRR § 142-2.2.

33. Due to Defendant’s violations of the New York Labor Law, Plaintiffs and Class members are entitled to recover from Defendant all of the unpaid overtime wages of not less than

one and one-half (1½) times their regular hourly rate for each hour worked in excess of forty (40) hours in a single workweek, reasonable attorneys' fees, costs, pre-judgment and post-judgment interest, liquidated damages, and other compensatory and equitable relief pursuant to New York Labor Law Article 6 § 190, *et seq.*, and Article 19 § 650, *et seq.*

COUNT II
New York Labor Law: Failure to Pay Wages When Due

34. Plaintiffs repeat and reallege paragraphs 1 through 33 above as if fully set forth herein.

35. Throughout the Class Period, Plaintiffs and Class members were “employees” covered by the New York Labor Law, and Defendant was an “employer” of Plaintiffs and the Class, as those terms are defined by New York Labor Law §§ 651(5) and (6), 190(2) and (3) and applicable regulations, 12 NYCRR § 142-2.14.

36. Defendant has failed to pay Plaintiffs and Class members all wages, including overtime wages, for the hours they each worked for Defendant. New York Labor Law requires that wages be paid on an employer’s regular payday for all hours worked.

37. Due to Defendant’s violations of the New York Labor Law, Plaintiffs and Class members are entitled to recover from Defendant their unpaid wages, reasonable attorneys’ fees, costs and pre-judgment and post-judgment interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Andreas-Moses, Morgan, Wagner, and Wright, on behalf of themselves and all members of the Class, respectfully pray that this Court enter judgment:

- a. Certifying the Class described herein pursuant to Rule 23 of the Federal Rules of Civil Procedure;

- b. Against Defendant in the amount of the Plaintiffs' and Class members' individual unpaid wages, statutory damages, actual and compensatory damages, liquidated damages, and pre- and post-judgment interest as allowed by law;
- c. Awarding Plaintiffs the attorneys' fees and costs incurred in this litigation;
- d. Issuing a declaratory judgment that the practices complained of herein are unlawful under New York Labor Law;
- e. Enjoining Defendant to cease the practices found illegal or in violation of the rights of the Class; and
- f. Granting Plaintiffs and the Class such further relief as this Court deems just and proper.

Dated: November 18, 2016

Respectfully submitted,

BLITMAN & KING LLP

s/ Brian J. LaClair _____

Brian J. LaClair (Bar No. 515995)

Attorneys for Plaintiffs

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Karen Andreas-Moses, Lisa Morgan, Elizabeth Wagner, Jacqueline Wright

(b) County of Residence of First Listed Plaintiff Cortland (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Brian J. LaClair, Blitman & King LLP, Franklin Center, Suite 300, 443 North Franklin Street, Syracuse, New York 13204, ph: 315-422-7111

DEFENDANTS

Hartford Fire Insurance Company

County of Residence of First Listed Defendant Hartford, CT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 1332. Brief description of cause: Failure to pay overtime compensation in violation of New York Labor Law

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Dalton (M.D. Fla.) DOCKET NUMBER 14-CV-149, 16-CV-1603

DATE 11/18/2016 SIGNATURE OF ATTORNEY OF RECORD s/ Brian J. LaClair

FOR OFFICE USE ONLY

RECEIPT # 0206-3853764 AMOUNT \$400.00 APPLYING IFP JUDGE BKS MAG. JUDGE DEP

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Hartford Fire Insurance Co. Owes Unpaid Wages After Misclassifying Claims Analysts](#)
