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16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Patricia Bobbs, on behalf of herself and all  
19 others similarly situated,

20 Plaintiff,

21 v.

22 National Claims Adjusters, Inc.,

23 Defendant.

24 Case No. **'21CV1323 TWR BGS**

**COMPLAINT FOR VIOLATIONS OF  
FLSA AND CALIFORNIA STATE LAW**

**COLLECTIVE ACTION AND CLASS  
ACTION**

**DEMAND FOR JURY TRIAL**

25 Plaintiff Patricia Bobbs (“Plaintiff” and/or “Bobbs”), on behalf of herself and all others  
26 similarly situated, hereby files this Complaint against Defendant

27 National Claims Adjusters, Inc. (“National” and/or “Defendant”), showing in support as follows:

28 **I. INTRODUCTION AND NATURE OF ACTION**

29 1. This is an action brought under the federal Fair Labor Standards Act, 29 U.S.C.  
30 §§ 201-219, and the Portal-to-Portal Act, 29 U.S.C. §§ 251-262 (collectively, the “FLSA”).

1           2.       This action is also brought as a putative class action under the California Labor  
2 Code and relevant Minimum Wage Order, MW-2021, and Industrial Welfare Commission Wage  
3 Order, No. 4-2001; the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200-  
4 17210; the California Labor Code and relevant Industrial Welfare Commission Wage Order, Cal.  
5 Labor Code § 2802 (Failure to Reimburse for Necessary Expenditures); Cal. Labor Code § 226  
6 (Wage Statement Provisions); Cal. Labor Code §§ 226, 1174, and 1174.5 (Record Keeping); and  
7 Cal. Labor Code §§ 201, 202, and 203 (Wage Payment Provisions) (collectively, “California  
8 State Law”) for Defendant’s violations of California State Law.

9           3.       According to its website, Defendant National Claims Adjusters, Inc. is an  
10 independent adjusting company that handles hurricane, flood, hail, tornado, and earthquake  
11 insurance claims throughout the United States.<sup>1</sup> Plaintiff handled property damage claims on  
12 behalf of Defendant.

13           4.       National misclassified Plaintiff and similarly situated individuals that handled  
14 property damage claims as independent contractors, in violation of California and federal law.  
15 *See* Cal. Labor Code § 2775; *Real v. Driscoll Strawberry Assocs., Inc.*, 605 F.2d 748, 754 (9th  
16 Cir. 1979). In particular, Plaintiff and similarly situated individuals in California (the “California  
17 Class Action Members”) were not free from the control and direction of National, performed  
18 work in the usual course of National’s business, and were not customarily engaged in an  
19 independently established trade, occupation, or business of the same nature as that involved in  
20 the work performed. *See id.*

21  
22 \_\_\_\_\_  
23 <sup>1</sup> *See* National Claims Adjusters, Inc., *Services*, <https://nclaimsadjusters.com/services> (last  
24 accessed July 5, 2021).



1 **B. Putative California Class Action Members**

2 10. Plaintiff brings this action on behalf of herself and on behalf of other similarly  
3 situated workers in the state of California as a class action pursuant to Rule 23 of the Federal  
4 Rules of Civil Procedure. Plaintiff seeks to represent the California Class Action Members  
5 composed of and defined as follows:

6 All current and former individuals located in California who handled insurance  
7 claims for Defendant at any time within the four years prior to the date of filing of  
8 this Complaint through the date of the final disposition of this action who were  
9 classified as independent contractors.

10 11. Plaintiff reserves the right to refine this definition or establish sub-classes in the  
11 event that discovery reveals that a more appropriate class definition exists.

12 12. Plaintiff is a proper class representative pursuant to Rule 23(a)(4) of the Federal  
13 Rules of Civil Procedure.

14 **C. Putative Collective Action Members**

15 13. Plaintiff brings this action on behalf of herself and on behalf of other similarly  
16 situated workers nationwide as a collective action pursuant to 29 U.S.C. § 216(b). Plaintiff seeks  
17 to conditionally certify a collective action composed of the putative Collective Action Members  
18 defined as follows:

19 All current and former individuals who handled insurance claims for Defendant  
20 nationwide at any time within the three years prior to the date of filing of this  
21 Complaint through the date of the final disposition of this action who were  
22 classified as independent contractors.

23 14. Plaintiff reserves the right to refine the definition or establish sub-classes in the  
24 event that discovery reveals that a more appropriate class definition exists.

1           15. Plaintiff seeks to represent the putative Collective Action Members for damages  
2 due to unpaid overtime wages pursuant to the FLSA. Plaintiff is similarly situated to the putative  
3 Collective Action Members pursuant to 29 U.S.C. § 216(b).

4 **D. Defendant National Claims Adjusters, Inc.**

5           16. Defendant National Claims Adjusters, Inc. is a corporation organized under the  
6 laws of the state of Florida that does business in California.

7           17. Defendant may be served with process through its registered agent, CSC-Lawyers  
8 Incorporating Service, located at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California  
9 95833-3505.

10           18. At all times relevant to this lawsuit, Defendant has been an “enterprise engaged in  
11 commerce” as defined by the FLSA.

12           19. At all times relevant to this lawsuit, Defendant employed two or more employees  
13 who engaged in commerce and/or who handled, sold, or otherwise worked on goods or materials  
14 that have been moved in or produced for commerce by any person.

15           20. At all times relevant to this lawsuit, Defendant has had gross operating revenues  
16 or business volume in excess of \$500,000.

17 **III. JURISDICTION AND VENUE**

18           21. This Court has federal question jurisdiction over all claims pursuant to 28 U.S.C.  
19 § 1331 and the FLSA at 29 U.S.C. § 216(b).

20           22. This Court also has supplemental jurisdiction over Plaintiff’s state law claims  
21 pursuant to 28 U.S.C. § 1367 because those claims derive from a common nucleus of operative  
22 fact.



1           30. Plaintiff was not allowed to negotiate the amount she was paid. Instead, her pay of  
2 \$20.00 to \$50.00 per claim file was offered on a “take it or leave it” basis.

3           31. Furthermore, Plaintiff, like the putative California Class Action Members and  
4 Collective Action Members, was required to use of her cell phone, data plan, and internet  
5 connection and to purchase a printer, paper, ink, and other office supplies necessary to perform  
6 her job. Defendant did not defray these costs incurred by Plaintiff and similarly situated  
7 individuals.

8           32. Plaintiff and the putative California Class Action Members and Collective Action  
9 Members were required to learn Defendant’s policies and procedures and deadlines. After  
10 becoming acquainted with the company, Defendant electronically assigned Plaintiff and the  
11 putative California Class Action Members and Collective Action Members their respective  
12 claims to complete.

13           33. Defendant also provided standard operating procedures to Plaintiff and the  
14 putative California Class Action Members and Collective Action Members that they were  
15 required to follow. They were not permitted to deviate from Defendant’s standard operating  
16 procedures.

17           34. Plaintiff and the putative California Class Action Members and Collective Action  
18 Members were subject to Defendant’s control such that Defendant reviewed their work, made  
19 corrections, and issued instructions.

20           35. Plaintiff and the putative California Class Action Members and Collective Action  
21 Members were non-exempt employees.

22           36. Despite Defendant’s employer-employee relationship with Plaintiff and the  
23 putative California Class Action Members and Collective Action Members, Defendant  
24

1 misclassified Plaintiff and the California Class Action Members and Collective Action Members  
2 as independent contractors instead of employees.

3 37. Defendant failed to pay Plaintiff and the California Class Action Members and  
4 Collective Actions Members at least the minimum wage rate for all hours worked under federal<sup>2</sup>  
5 and California law. For example, in a seven-day workweek, on average, Plaintiff completed eight  
6 (8) claims at \$20.00 to \$50.00 per claim. Plaintiff typically worked a total of 60 hours per week.  
7 Plaintiff incurred weekly expenses of at least \$70.00, including for her cell phone, data plan, and  
8 internet connection, as well as for the printer, paper, ink, office supplies, and other expenses. The  
9 maximum gross compensation paid to Plaintiff, when divided by her hours of work and with  
10 expenses deducted, demonstrates that she was paid, on average, \$5.50 per hour (8 claims  
11 \*\$50.00 per claim = \$400.00 - \$70.00 expenses = \$330.00 / 60 hours of work per week = \$5.50  
12 per hour). Consequently, Plaintiff was compensated below the federal minimum wage of \$7.25  
13 per hour, and far below the California minimum wage of \$11.00 per hour.<sup>3</sup>

14 38. The pay rate applicable to Plaintiff for the work she performed as an employee of  
15 National in a given workweek, and on average with respect to her work for National, was in  
16 violation of the FLSA, and Plaintiff is owed the difference between the federally-mandated  
17 minimum wage and the actual wage rate she was paid (i.e., \$11.00 [2018 California minimum  
18 wage] - \$5.50 [wage rate actually paid] = \$5.50) multiplied by her hours of work in that

19 \_\_\_\_\_  
20 <sup>2</sup> See 29 U.S.C. § 218(a) (employee is entitled to be compensated at the greater of either  
21 the federal minimum wage rate or the minimum wage rate established by the state or locality in  
22 which the employee works).

22 <sup>3</sup> See State of Cal. Dep't of Indus. Relations, *Minimum Wage*, [https://www.dir.ca.gov/dlse/faq\\_minimumwage.htm](https://www.dir.ca.gov/dlse/faq_minimumwage.htm) (last accessed July 9, 2021) (The California state minimum wage rate  
23 for an employer with at least 26 employees was \$11.00 from January 1, 2018 to December 31,  
24 2018.).



1 workweek ( $\$5.50 * 60$  [hours per week] =  $\$330.00$ ) as back wages, as well as all other applicable  
2 statutory damages and/or remedies. This pay practice and/or policy was not unique to Plaintiff,  
3 but was applicable to all similarly situated individuals hired as “independent contractors.” As a  
4 result, Plaintiff and similarly situated individuals hired as “independent contractors” are entitled  
5 to damages for National’s failure to compensate them at the federally-mandated minimum wage.

6 39. Plaintiff and the putative California Class Action Members and Collective Action  
7 Members were never independent contractors, but were at all times employees of Defendant.  
8 Defendant hired/fired, issued pay, supervised, directed, disciplined, scheduled and performed all  
9 other duties generally associated with that of an employer with regard to Plaintiff and the  
10 putative California Class Action Members and Collective Action Members.

11 40. In addition, Defendant instructed Plaintiff and the putative California Class  
12 Action Members and Collective Action Members about when, where, and how they were to  
13 perform their work – including assigning the details of the job assignment.

14 41. Plaintiff and the putative California Class Action Members and Collective Action  
15 Members were the workforce without which Defendant could not provide its services. Plaintiff  
16 and the putative California Class Action Members and Collective Action Members were not  
17 independent business owners, but were dependent upon the work of Defendant to earn income.

18 42. Despite these facts, Defendant improperly classified Plaintiff and the putative  
19 California Class Action Members and Collective Action Members as independent contractors  
20 and not as employees.

21 43. Defendant’s method of paying the Plaintiff and the putative California Class  
22 Action Members and Collective Action Members in violation of the California Labor Code was  
23

1 willful and was not based on a good faith and reasonable belief that its conduct complied with  
2 the law.

3 44. Defendant's conduct, as set forth herein, was willful and in bad faith, and has  
4 caused significant damages to Plaintiff and the putative California Class Action Members and  
5 Collective Action Members.

6 45. Moreover, Defendant failed to reimburse Plaintiff and the California Class Action  
7 Members for their work-related expenses. Plaintiff and the California Class Action Members  
8 used their cell phones, data plans, and internet connections and had to purchase paper, printers,  
9 ink, office supplies, and other items. However, Defendant failed to reimburse the aforementioned  
10 expenses. Plaintiff and the California Class Action Members incurred these costs as a necessary  
11 expenditure to work for Defendant and thus, Defendant should have paid for those costs.

12 46. Defendant also failed to provide Plaintiff and the California Class Action  
13 Members with proper itemized wage statements that included all the requisite information  
14 required by California law, including the number of hours worked, the hourly wage rate, and any  
15 deductions from wages.

16 **V. COLLECTIVE ACTION ALLEGATIONS**

17 47. Plaintiff seeks to bring her claims under the FLSA on behalf of herself and all  
18 other similarly situated individuals nationwide as a collective action pursuant to 29 U.S.C.  
19 § 216(b). Plaintiff seeks to certify a collective action pursuant to the below preliminary  
20 definition:

21 All current and former individuals who handled insurance claims for Defendant  
22 nationwide at any time within the three years prior to the date of filing of this  
23 Complaint through the date of the final disposition of this action who were  
classified as independent contractors.

1 48. Plaintiff has actual knowledge that the putative Collective Action Members have  
 2 been denied minimum wages for all hours worked in each workweek. Plaintiff worked with other  
 3 non-exempt individuals who were similarly misclassified as independent contractors and paid a  
 4 flat fee per claim.

5 49. The putative Collective Action Members are similarly situated to Plaintiff in all  
 6 respects, having worked on a flat fee per claim basis while misclassified as independent  
 7 contractors, and being required to incur expenses including cell phone/data charges, office  
 8 supplies, and other expenses which caused their wages to drop below the applicable minimum  
 9 wage rate.

10 50. Defendant’s failure to pay minimum wages results from generally applicable  
 11 policies or practices, and does not depend on the personal circumstances of the putative  
 12 Collective Action Members, specifically from their misclassification as independent contractors  
 13 by Defendant.

14 51. The specific job titles or precise job responsibilities of each putative Collective  
 15 Action Member does not prevent collective treatment.

16 52. Although the exact amount of damages may vary among the putative Collective  
 17 Action Members, the damages are easily calculable using a simple formula uniformly applicable  
 18 to all of them.

19 **VI. CLASS ALLEGATIONS**

20 53. Plaintiff also seeks to bring her claims under California State Law as a class  
 21 action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the California  
 22 Class Action Members pursuant to the below preliminary definition:

1 All current and former individuals located in California who handled insurance  
2 claims for Defendant at any time within the four years prior to the date of filing of  
3 this Complaint through the date of the final disposition of this action who were  
4 classified as independent contractors.

5 54. Numerosity. The number of members in the California Class Action is believed to  
6 exceed forty. This volume makes bringing the claims of each individual member of the class  
7 before this Court impracticable. Likewise, joining each individual member of the California  
8 Class Action as a plaintiff in this action is impracticable. Furthermore, the identity of the  
9 members of the California Class Action will be determined from Defendant's records, as will the  
10 compensation paid to each of them. As such, a class action is a reasonable and practical means of  
11 resolving these claims. To require individual actions would prejudice the California Class Action  
12 Members and Defendant.

13 55. Typicality. Plaintiff's claims are typical of the California Class Action because  
14 like the members of the California Class Action, Plaintiff was subject to Defendant's uniform  
15 policies and practices and was compensated in the same manner as others in the California Class  
16 Action. Defendant failed to pay the California Class Action Members minimum wages and  
17 reimbursable expenses. Plaintiff and the California Class Action Members have been  
18 uncompensated and/or under-compensated as a result of Defendant's common policies and  
19 practices which failed to comply with California law. As such, Plaintiff's claims are typical of  
20 the claims of the California Class Action Members. Plaintiff and all members of the California  
21 Class Action sustained damages arising out of and caused by Defendant's common course of  
22 conduct in violation of law as alleged herein.

23 56. Adequacy. Plaintiff is a representative party who will fairly and adequately  
24 protect the interests of the California Class Action Members because it is in her interest to

1 effectively prosecute the claims herein alleged in order to obtain the unpaid wages and penalties  
2 required under California law. Plaintiff has retained attorneys who are competent in both class  
3 actions and wage and hour litigation. Plaintiff does not have any interest which may be contrary  
4 to or in conflict with the claims of the California Class Action Members she seeks to represent.

5 57. Commonality. Common issues of fact and law predominate over any individual  
6 questions in this matter. The common issues of fact include, but are not limited to:

- 7 a. Whether Plaintiff and the California Class Action Members were paid the  
8 minimum wage;
- 9 b. Whether Plaintiff and the California Class Action Members incurred work related  
10 expenses;
- 11 c. Whether Plaintiff and the California Class Action Members were issued proper  
12 wage statements;
- 13 d. Whether Defendant failed to keep accurate records of employees' hours of work  
14 and hourly wages, and failed to timely furnish each Plaintiff and member of the  
15 California Class Action with a statement accurately showing the total number of  
16 hours worked and wages earned each pay period; and
- 17 e. Whether Defendant has failed to timely pay employees unpaid wages and  
18 overtime due upon their separation from employment with Defendant.

19 58. The common issues of law include, but are not limited to:

- 20 a. Whether Plaintiff and the California Class Action Members were employees or  
21 independent contractors;
- 22
- 23

- b. Whether Plaintiff and the California Class Action Members, who are no longer employed by Defendant, are entitled to waiting time penalties for Defendant's failure to pay all their wages upon termination of their employment;
- c. Whether Defendant's pay records comply with California law;
- d. Whether Plaintiff and the California Class Action Members are entitled to compensatory damages;
- e. The proper measure of damages sustained by Plaintiff and the California Class Action Members; and
- f. Whether Defendant's actions were "willful."

59. Superiority. A class action is superior to other available means for the fair and efficient adjudication of this lawsuit. Even in the event any member of the California Class Action could afford to pursue individual litigation against a company the size of Defendant, doing so would unduly burden the court system. Individual litigation would magnify the delay and expense to all parties and flood the court system with duplicative lawsuits. Prosecution of separate actions by individual members of the California Class Action would create the risk of inconsistent or varying judicial results and establish incompatible standards of conduct for Defendant.

60. A class action, by contrast, presents far fewer management difficulties and affords the benefits of uniform adjudication of the claims, financial economy for the parties, and comprehensive supervision by a single court. By concentrating this litigation in one forum, judicial economy and parity among the claims of individual California Class Action Members are promoted. Additionally, class treatment in this matter will provide for judicial consistency. Notice of the pendency and any resolution of this action can be provided to the California Class

1 Action Members by mail, electronic mail, text message, print, broadcast, internet and/or  
2 multimedia publication. The identity of members of the California Class Action is readily  
3 identifiable from Defendant's records.

4 61. This type of case is well-suited for class action treatment because: (1) Defendant's  
5 practices, policies, and/or procedures were uniform; and (2) the burden is on Defendant to prove  
6 it properly compensated Plaintiff and the California Class Action Members. Ultimately, a class  
7 action is a superior form to resolve the claims detailed herein because of the common nucleus of  
8 operative facts centered on the continued failure of Defendant to pay Plaintiff and the California  
9 Class Action Members per applicable California laws.

## 10 VII. CAUSES OF ACTION

### 11 1. First Claim for Relief – Federal Minimum Wage Claims: Violations of 12 the FLSA 29 U.S.C. §§ 201-219

13 62. Plaintiff incorporates the preceding paragraphs by reference as if set forth fully in  
14 this section, unless inconsistent.

15 63. The foregoing conduct, as alleged, violated the FLSA.

16 64. Plaintiff and the putative Collective Action Members were employees of  
17 Defendant under the FLSA. 29 U.S.C. § 203(d) & 203(e)(1).

18 65. Defendant was and is required to pay its employees, Plaintiff and the putative  
19 Collective Action Members, at a rate of at least the highest of the applicable federal, state,  
20 municipal or local minimum wage for all hours worked under forty in a given workweek. 29  
21 U.S.C. § 206.

22 66. Defendant failed to pay Plaintiff and the putative Collective Action Members the  
23 applicable federally-mandated minimum wage for all hours worked under forty in each  
24

1 workweek due to its policy or practice of misclassifying Plaintiff and the putative Collective  
2 Action Members as independent contractors.

3 67. Accordingly, Plaintiff and the putative Collective Action Members are entitled to  
4 the full statutory minimum wages set forth in 29 U.S.C. §§ 206 & 207.

5 68. Defendant's conduct was willful and done to avoid paying minimum wages and  
6 overtime 29 U.S.C. § 255(a). Therefore, Plaintiff and the putative Collective Action Members  
7 are entitled to recover damages based on the FLSA's three (3) year statutory limitations period.

8 69. Plaintiff seeks all damages to which she is entitled under the FLSA, including  
9 back minimum wages, liquidated damages, attorneys' fees and costs, post-judgment interest, and  
10 specifically pleads recovery for the three (3) year period preceding the filing of this lawsuit  
11 through its resolution.

12 **2. Second Claim for Relief – Violations of California Unfair Competition**  
13 **Law, Cal. Bus. & Prof. Code, §§ 17200-17210**

14 70. Plaintiff incorporates the preceding paragraphs by reference as if set forth fully in  
15 this section, unless inconsistent.

16 71. The foregoing conduct, as alleged violates the California Unfair Competition Law  
17 ("UCL"). Cal. Bus. & Prof. Code §§ 17200-17210. The UCL prohibits unfair competition by  
18 prohibiting any unlawful or unfair business acts or practices.

19 72. Plaintiff brings this cause of action on behalf of herself and as a representative of  
20 the California Class Action Members subject to Defendant's unlawful acts and practices.

21 73. During all relevant times, Defendant committed unlawful, unfair, deceptive,  
22 and/or fraudulent acts as defined by California Business & Professions Code § 17200.

23 Defendant's unlawful, unfair, deceptive, and/or fraudulent business practices include, without  
24



1 limitation and each independently, failing to pay minimum wages, and failing to pay all wages  
2 upon termination in violation of California law, as described throughout this Complaint.

3 74. As a result of this unlawful and/or unfair and/or fraudulent business practice,  
4 Defendant reaped unfair benefits and illegal profits at the expense of Plaintiff and the California  
5 Class Action Members. Defendant must disgorge these ill-gotten gains and restore to Plaintiff  
6 and the California Class Action Members all wrongfully withheld wages, including, but not  
7 limited to minimum wages, interest on these wages, and all other injunctive and preventive relief  
8 authorized by Business and Professions Code §§ 17202 and 17203.

9 75. Plaintiff, on behalf of herself and the California Class Action Members,  
10 respectfully request that judgment be awarded in their favor to provide restitution and interest,  
11 and the relief requested below in the Prayer for Relief, pursuant to the four-year statute of  
12 limitations contained in the UCL.

13 **3. Third Claim for Relief – California State Minimum Wage Claims:  
14 Violations of Cal. Labor Code §§ 1182.12, 1194, 1194.2-1194.5, 1197,  
15 1197.1; IWC Wage Order No. 4-2001; Minimum Wage Order MW-  
2021**

16 76. Plaintiff incorporates the preceding paragraphs by reference as if set forth fully in  
17 this section, unless inconsistent.

18 77. The California Labor Code requires that all employees be paid minimum wages  
19 by their employers. Plaintiff and the California Class Action Members were at all times  
20 employees of the Defendant. *See* Cal. Labor Code § 2775 (codifying ABC test from *Dynamex*  
21 *Operations, W. Inc. v. Superior Court*, 4 Cal. 5th 903 (2018)). Defendant’s conduct, as set forth,  
22 in failing to ensure that Plaintiff and the California Class Action Members received the minimum  
23

1 wage for all hours worked violates California Law. *See* Cal. Labor Code §§ 1182.12, 1194,  
2 1194.2-1194.5, 1197, 1197.1.

3 78. Plaintiff brings this claim individually and on behalf of the California Class  
4 Action Members. Plaintiff specifically seeks recovery for unpaid minimum wages for the four-  
5 year period relevant to her lawsuit in an amount to be established at trial, prejudgment interest,  
6 liquidated damages in an amount equal to her and the California Class Action Members' back  
7 minimum wages, and costs and attorneys' fees, pursuant to statute and other applicable law.

8 **4. Fourth Claim for Relief – Failure to Reimburse for Necessary**  
9 **Expenditures; Cal. Labor Code § 2802**

10 79. Plaintiff incorporates the preceding paragraphs by reference as if set forth fully in  
11 this section, unless inconsistent.

12 80. At all times material to this Complaint, Defendant required Plaintiff and the  
13 California Class Action Members to provide their own office supplies and equipment throughout  
14 the course and scope of their employment. Defendant did not reimburse Plaintiff and the  
15 California Class Action Members for the use of their cell phones, data plans, and internet  
16 connections. Also, Plaintiff and the California Class Action Members were not reimbursed for  
17 the purchase of paper, printers, ink, office supplies, and other expenses that benefited Defendant,  
18 all of which were required to perform their jobs.

19 81. At all times material to this Complaint, Defendant was subject to Labor Code §  
20 2802, which states that “an employer shall indemnify his or her employees for all necessary  
21 expenditures or losses incurred by the employee in direct consequence of the discharge of his or  
22 her duties, or his or her obedience to the directions of the employer.”

1           82.     As a proximate result of Defendant’s policies in violation of Labor Code § 2802,  
2 Plaintiff and the California Class Action Members sustained actual and pecuniary damages.

3           83.     Plaintiff and the California Class Action Members are entitled to attorneys’ fees,  
4 expenses, and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

5           84.     Pursuant to Labor Code § 2802(b), in any action brought for the reimbursement of  
6 necessary expenditures under this section shall carry interest at the same rate as judgments in  
7 civil actions. Interest shall accrue from the date on which the employee incurred the necessary  
8 expenditure. Plaintiff and the California Class Action Members are entitled to said interest.

9                   **5.     Fifth Claim for Relief – Failure to Furnish Wage Statements and**  
10                   **Record-Keeping Violations, Cal. Labor Code § 226, 1174, & 1174.5**

11           85.     Plaintiff incorporates the preceding paragraphs by reference as if set forth fully in  
12 this section, unless inconsistent.

13           86.     Defendant knowingly and intentionally failed to furnish and continues to fail to  
14 furnish Plaintiff and the California Class Action Members with timely, itemized statements that  
15 accurately reflect – among other things – the total number of hours worked and wages earned, as  
16 mandated by the California Labor Code § 226(a), which requires employers, semi-monthly or at  
17 the time of each payment of wages, to furnish each employee with a statement that accurately  
18 reflects the total number of hours worked. On information and belief, at all times relevant herein,  
19 Defendant has failed to maintain records of hours worked by Plaintiff and the California Class  
20 Action Members as required under California Labor Code § 1174(d).

21           87.     As a result, Defendant is liable to Plaintiff and each of the California Class Action  
22 Members for the amounts provided by California Labor Code § 226(e): the greater of actual  
23

1 damages or fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for each  
2 subsequent violation, up to four thousand dollars (\$4,000).

3 88. Plaintiff and the California Class Action Members are also entitled to reasonable  
4 attorneys' fees and costs pursuant to California Labor Code § 226(e).

5 **6. Sixth Claim for Relief – California Wage Payment Provisions, Cal.  
6 Labor Code §§ 201, 202, & 203**

7 89. Plaintiff incorporates the preceding paragraphs by reference as if set forth fully in  
8 this section, unless inconsistent.

9 90. California Labor Code §§ 201 and 202 require Defendant to pay employees all  
10 wages due within the time specified by law. California Labor Code § 203 provides that if an  
11 employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to  
12 pay the subject employees' wages until the back wages are paid in full or an action is  
13 commenced, up to a maximum of thirty days of wages.

14 91. Plaintiff and the putative California Class Action Members who ceased  
15 employment with Defendant are entitled to unpaid compensation and other monies, as alleged  
16 above, but to date have not received such compensation.

17 92. More than thirty days have passed since Plaintiff and the putative California Class  
18 Action Members left Defendant's employ.

19 93. As a consequence of Defendant's willful conduct in not paying compensation for  
20 all hours worked, Plaintiff and the putative California Class Action Members whose employment  
21 ended during the class period are entitled to thirty days' wages under Labor Code § 203, together  
22 with interest thereon and attorneys' fees and costs.

**VIII. JURY DEMAND**

94. Plaintiff hereby demands a jury trial on all causes of action and claims for relief with respect to which she and the putative Collective and California Class Action Members have a right to jury trial.

**IX. DAMAGES AND PRAYER**

95. Plaintiff asks that the Court issue summons for Defendant to appear and answer, and that Plaintiff and the Collective Action Members and California Class Action Members be awarded a judgment against Defendant or order(s) from the Court for the following:

- a. An order conditionally certifying this case as an FLSA collective action and requiring notice to be issued to all putative Collective Action Members;
- b. An order certifying that the California State Law Claims may be maintained as a class action pursuant to Federal Rule of Civil Procedure 23;
- c. Designation of Plaintiff Patricia Bobbs as a Representative of the California Class Action Members;
- d. Designation of attorneys Ricardo J. Prieto and Melinda Arbuckle of Shellist Lazarz Slobin, LLP, as Class Counsel for the nationwide FLSA Collective Action and the California Class Action Members;
- e. A declaratory judgment that the practices complained of herein are unlawful under the FLSA and California State Law;
- f. An injunction against Defendant and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with Defendant, as provided by law, from engaging in each of the unlawful practices, policies, and patterns set forth herein;
- g. An award of compensatory damages, including all expenses and back wages owed, in an amount according to proof;
- h. An award of liquidated damages, restitution, and/or statutory penalties to be paid by Defendant for the causes of action alleged herein;

- i. Appropriate statutory penalties;
- j. Costs of action incurred herein, including expert fees;
- k. Attorneys’ fees, including fees pursuant to 29 U.S.C. § 216;
- l. Pre-judgment and post-judgment interest, as provided by law; and
- m. Such other injunctive and equitable relief as the Court may deem just and proper.

Dated: July 22, 2021

Respectfully submitted,

By: /s/Melinda Arbuckle  
Melinda Arbuckle

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*Counsel for Plaintiff and Proposed Class and  
Collective Action Members*

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

Patricia Bobbs, on behalf of herself and all others similarly situated

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Melinda Arbuckle and Ricardo J. Prieto Shellist Lazarz Slobin LLP, 11 Greenway Plaza, Suite 1515, Houston, Texas 77046, (713) 621-2277

DEFENDANTS

National Claims Adjusters, Inc.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'21CV1323 TWR BGS

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)

Click here for: Nature of Suit Code Descriptions.

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): 29 U.S.C. §§ 201-219

Brief description of cause: Failure to pay overtime

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/22/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Ricardo J. Prieto

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CONSENT FORM FOR  
WAGE CLAIM

Printed Name:

Patricia Bobbs

1. I consent and agree to pursue my claims of unpaid overtime and/or minimum wage through the lawsuit filed against my employer. I authorize Shellist, Lazarz, Slobin LLP to represent me in this matter.
2. I understand that this lawsuit is brought under the Fair Labor Standards Act and all applicable state laws. I hereby consent, agree and opt-in to become a plaintiff herein and be bound by any judgment by the Court or any settlement of this action.
3. I intend to pursue my claim individually, unless and until the court certifies this case as a collective or class action. I agree to serve as the class representative if the court approves. If someone else serves as the class representative, then I designate the class representatives as my agents to make decisions on my behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with the plaintiffs' counsel concerning attorney's fees and costs, and all other matters pertaining to this lawsuit.
4. If my consent form is stricken or if I am for any reason not allowed to participate in this case, I authorize Plaintiff's counsel above to use this Consent Form to re-file my claims in a separate or related action against my employer.

SIGNATURE:

DATE:

Patricia Bobbs

5/18/2021



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges National Claims Adjusters Misclassified Workers as Independent Contractors](#)

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