

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

SARAH HARVEY )  
4320 Rocky River Drive )  
Cleveland, Ohio 44135 )

CASE NO.

On behalf of herself and all others )  
similarly situated )

JUDGE:

Plaintiffs, )

v. )

**COLLECTIVE ACTION**  
**COMPLAINT FOR DAMAGES**

NATIONAL GENERAL INSURANCE )  
AGENCY, INC. )  
800 Superior Avenue )  
Cleveland, Ohio 44114 )

**JURY DEMAND ENDORSED**  
**HEREIN**

**Serve Statutory Agent also:** )  
NATIONAL REGISTERED )  
AGENTS, INC. )  
4400 Easton Commons Way Suite 125 )  
Columbus, Ohio 43219 )

Defendant. )

Plaintiff Sarah Harvey (“Harvey”) brings this action against Defendant National General Insurance Agency, Inc. (“National General”), seeking all available relief under the Fair Labor Standards Act of 1983 (“FLSA”), 29 U.S.C. §§ 201 *et seq.*, and the Ohio Minimum Fair Wages Standards Act (the “Ohio Wage Law”), O.R.C. §§ 4111.01 *et seq.* Plaintiff’s FLSA claims are asserted as a collective action pursuant to 29 U.S.C. § 216(b), while the Ohio Wage Law claims are asserted individually. The following allegations are based upon information and belief, or personal knowledge as to Plaintiff’s own conduct and the conduct and acts of others.



**PARTIES AND VENUE**

1. Harvey is an adult individual resident of the city of Cleveland, county of Cuyahoga, state of Ohio. Harvey consents in writing to be a party to this collective action pursuant to 29 U.S.C. § 216(b).<sup>1</sup>
2. National General is a foreign for-profit corporation lawfully licensed to conduct business in the state of Ohio, which maintains a place of business located at 800 Superior Avenue, Cleveland, Ohio 44114.
3. During all times material to this Complaint, National General was an “employer” within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d), and O.R.C. § 4111.03(D); an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r); and an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1).
4. National General is, and at all times hereinafter mentioned was, an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1)(A) of the FLSA, in that said enterprise at all times hereinafter mentioned had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that enterprise had an annual gross volume of sales made or business done of no less than \$500,000.
5. During all times material to this Complaint, Plaintiff and the putative class members, as defined herein, were “employees” of National General within the meaning of 29 U.S.C. § 203(d) and O.R.C. § 4111.03(D).

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<sup>1</sup> Harvey’s executed Consent to Sue form is attached hereto as Exhibit A.



6. The putative FLSA class, pursuant to 29 U.S.C. § 216(b), is defined in paragraph 40 of the Complaint.

### **JURISDICTION & VENUE**

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 in that Plaintiff and the putative class members are alleging Federal Law Claims under the FLSA, 29 U.S.C. § 216(b).
8. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367 as Plaintiff's state law claims are so closely related to her federal law claims that they form part of the same case or controversy under Article III of the United States Constitution.
9. This Court has personal jurisdiction over National General because it is a foreign for-profit corporation lawfully licensed to conduct business in Ohio, maintains a facility in Ohio, and conducts business and employment practices in Ohio.
10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, because at all times relevant hereto, National General is and always has been responsible for the acts alleged herein, a substantial portion of the practices complained of herein occurred in this District, and National General has received substantial compensation as a result of doing business in this District. Moreover, at all times material to the allegations contained herein, National General was registered to conduct business in the State of Ohio, and conducted substantial business in the State of Ohio.

### **FACTS** **(Plaintiff Sarah Harvey)**

11. Harvey is a former employee of National General.
12. National General initially hired Harvey as an intern in or around May of 2015.
13. In or around March of 2016, National General promoted Harvey to the Sales Representative position.



14. Throughout her employment with National General, Harvey was an hourly-paid, FLSA non-exempt employee.
15. As a Sales Representative, Harvey worked between 40 and 50 hours per week on average.
16. Harvey was paid a flat rate of \$12.00 per hour plus commission for all hours worked, to include those hours she worked in excess of 40 per week.
17. Harvey was not paid overtime at a rate of time and one-half her regular rate for those hours she worked in excess of 40 per week.
18. In addition to being denied overtime, Harvey was not paid for all hours worked as described in greater detail below.

#### **GENERAL ALLEGATIONS**

19. Harvey and others similarly situated are “employees” of Defendants within the meaning of 29 U.S.C § 203(e)(1).
20. At all times referenced herein, Harvey and others similarly situated were non-exempt from the minimum wage and overtime protections of the FLSA.
21. The primary job duty of Harvey and those similarly situated was to sell the insurance products of third party insurance carriers over the phone.
22. Harvey and those similarly situated were paid a flat hourly rate for all hours worked, plus commissions.
23. Harvey and those similarly situated were not paid overtime when they worked in excess of 40 hours per week.
24. Although Harvey and those similarly situated earned commissions, they were not subject to the retail sales exemption provided in 29 U.S. Code § 207(i).



25. National General is not a retail or service establishment within the meaning of 29 U.S. Code § 207(i).
26. 29 U.S. Code § 779.317 specifically identifies “insurance” and “insurance brokers” as establishments lacking a retail concept.
27. National General falls within the insurance brokerage industry that section 779.317 finds to lack the requisite retail concept to qualify for an exemption from the FLSA’s overtime requirements. See *Burden v. SelectQuote Ins. Services*, 848 F.Supp.2d 1075, 1085–86 (N.D.Cal.2012).
28. During their respective periods of employment, Harvey and those similarly situated were subjected to the following uniform and unlawful pay practices by National General:
  - a. National General unlawfully failed to pay Harvey or those similarly situated overtime at a rate time and one-half their regular rates of pay for any hours they worked in excess of 40 hours per week; and
  - b. National General maintained and enforced an unlawful “time shaving” practice, in which its managers would review the time worked by Harvey and those similarly situated, and then “shave” off any time Harvey and those similarly situated worked *prior to* receiving their first customer call of the day as well as any time Harvey or those spent working *after* the last call of the day. As a result, Harvey and those similarly situated were not paid for all time worked or for all overtime due.
29. National General suffered or permitted Harvey and those similarly situated to work before they received their first customer call of the day.
30. The time Harvey and those similarly situated spent working before their first customer call of the day was compensable.
31. National General suffered or permitted Harvey and those similarly situated to work after they received their last customer call of the day.
32. The time Harvey and those similarly situated spent working after their last customer call of the day was compensable.



33. At all times referenced herein, National General knew that it was required to pay Harvey and those similarly situated for all hours worked.
34. At all times referenced herein, National General knew that it was required to pay Harvey and those similarly situated overtime at a rate of time and one half the regular rate of pay for all hours worked in excess of 40 per week.
35. The paystubs National General issued to Harvey and those similarly situated expressly acknowledged National General's overtime obligations, stating "Overtime @ 1.5x"
36. A true and accurate copy of one of Harvey's paystubs demonstrating National General's awareness of its overtime obligation and knowing decision to nonetheless pay Harvey a flat hourly rate for hours worked in excess of 40 is attached hereto as Exhibit B.
37. Despite its knowledge of its obligations to pay employees the proper wage for all hours worked, to include overtime, National General willfully and recklessly refused to pay Harvey and those similarly situated properly.
38. National General lacks a good faith or reasonable justification for failing to pay Harvey and those similarly situated properly for all hours worked, to include overtime.

### **FLSA COLLECTIVE ACTION ALLEGATIONS**

39. Harvey restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
40. Harvey bring this as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of herself and all similarly situated individuals who are part of the following class:

All individuals employed by National General who are or were hourly-paid, FLSA non-exempt employees who were not paid for all hours worked, and/or overtime compensation at a rate of one-and-one-half times their respective regular rates of pay for hours worked over forty (40) in a workweek at any time during three (3) years preceding the filing of this action.



These individuals are referred to as the “FLSA Class” or “FLSA Class Members.”

41. Collective Action treatment of Plaintiffs’ FLSA claims is appropriate because Plaintiffs and the FLSA Class have been subjected to the common business practices referenced in paragraphs 19 through 38 herein, and the success of their claims depends on the resolution of common issues of law and fact, including, *inter alia*, whether National General’s companywide practices failed to properly compensate the FLSA Class Members for all hours worked.
42. Harvey seeks to recover all wages owed to herself and the FLSA Class Members for unpaid regular and overtime hours worked, liquidated damages to the fullest extent allowable under the FLSA and Ohio Wage Law, all available equitable relief, including attorneys’ fees and associated litigation costs.

**COUNT I: VIOLATION OF THE FAIR LABOR STANDARDS ACT – FAILURE TO PAY OVERTIME COMPENSATION**

43. Harvey restates each and every prior paragraph of this Complaint, as if it were fully stated herein.
44. During all times material to this Complaint, National General was an employer covered by the FLSA.
45. During all times material to this Complaint, Harvey and the FLSA Class Members were employees who were not exempt from overtime compensation under the FLSA because, *inter alia*, they were not “executive,” “administrative,” “professional,” or “retail sales” employees as defined under the FLSA, and were entitled to one-and-one-half times their respective regular rates for hours worked in excess of forty (40) hours per workweek.
46. During all times material to this Complaint, National General violated the FLSA with respect to Harvey and the FLSA Class Members by, *inter alia*, failing to compensate them for all time worked in a workweek, where all time worked includes all time spent by an employee that was



primarily for the benefit of the employer or the employer's business and where the employer knew or should have known that the employee was spending the time at issue primarily for the employer's benefit.

47. During all times material to this Complaint, National General violated the FLSA with respect to Harvey and the FLSA Class Members by, *inter alia*, failing to compensate them at one-and-one-half their regular rates of pay for any hours worked in excess of forty (40) hours per workweek.

48. During all times material to this complaint, National General knew that Harvey and the FLSA Class Members were not exempt from the overtime obligations imposed by the FLSA. National General also knew that it was required to pay Harvey and the FLSA Class Members overtime compensation at a rate of one-and-one-half their respective regular rates for hours worked in excess of forty (40) hours per workweek. Despite such knowledge, National General willfully withheld and failed to pay the FLSA Class Members for all time worked, including overtime compensation, to which Harvey and the FLSA Class Members were entitled.

49. In violating the FLSA, National General acted willfully, without a good faith basis, and in reckless disregard of clearly applicable FLSA provisions.

50. As a direct and proximate cause of NIGC's conduct, pursuant to 29 U.S.C. § 216(b), National General is liable to Plaintiff and those similarly situated for the full amount of all unpaid wages and required overtime obligations, an additional equal amount as liquidated damages, as well as costs and reasonable attorneys' fees.

### **COUNT II: VIOLATION OF THE OHIO WAGE ACT**

51. Harvey restates each and every prior paragraph of this Complaint, as if it were fully restated herein.





52. The Ohio Wage Act requires that covered employees be compensated for every hour worked in a workweek.
53. The Ohio Wage Act requires that employees receive overtime compensation at a rate of one-and-one-half times the employee's regular rate of pay for all hours worked over forty (40) in a workweek.
54. During all times material to this Complaint, National General was an employer required to comply with the Ohio Wage Act's mandates.
55. During all times material to this Complaint, Harvey was an employee entitled to individual protection of the Ohio Wage Act.
56. Defendants violated the Ohio Wage Act with respect to Harvey by, *inter alia*, failing to compensate Harvey for all hours worked, failing to pay Harvey the minimum wage for all hours worked, and failing to pay Harvey overtime for all hours worked over forty (40) in a workweek.
57. In violating the Ohio Wage Act, National General acted willfully, without a good faith basis, and with reckless disregard of clearly applicable Ohio Wage Act provisions.

### **DEMAND FOR RELIEF**

WHEREFORE, Plaintiff Sarah Harvey requests judgment against Defendants and for an Order:

- (a) Certifying a collective action pursuant to 29 U.S.C. § 216(b) consisting of all individuals employed by National General Insurance Agency, Inc., who work or have worked as non-exempt FLSA employees as described herein, and who were not paid for all hours worked, paid less than the minimum wage, and/or denied payment for overtime hours worked at any time during the three (3) years preceding the filing of this action;



- (b) Prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to the FLSA Class Members apprising them of the pendency of this action, and permitting them to timely assert their rights under the FLSA and pursuant to 29 U.S.C. § 216(b);
- (c) Awarding to Plaintiff and the FLSA Class Members unpaid wages as to be determined at trial together with any liquidated damages allowed by the FLSA;
- (d) Awarding Plaintiff and the FLSA Class Members costs and disbursements and reasonable allowances for fees of counsel and experts, and reimbursement of expenses;
- (e) Awarding Plaintiff and the FLSA Class Members such other and further relief as the Court deems just and proper;
- (f) An injunction prohibiting National General Insurance Agency, Inc., from engaging in future violations of the FLSA and Ohio Wage Act; and
- (g) For a judgment against Defendants for all damage, relieve, or any other recovery whatsoever.

Respectfully submitted,

/s/ Chris P. Wido

Chris P. Wido (0090441)

**THE SPITZ LAW FIRM, LLC**

25200 Chagrin Boulevard, Suite 200

Beachwood, Ohio 44122

Phone: (216) 291-4744

Fax: (216) 291-5744

Email: [chris.wido@spitzlawfirm.com](mailto:chris.wido@spitzlawfirm.com)

*Attorney for Plaintiff Sarah Harvey*



**JURY DEMAND**

Plaintiff Sarah Harvey demands a trial by jury by the maximum number of jurors permitted.

/s/ Chris P. Wido  
Chris P. Wido (0090441)  
**THE SPITZ LAW FIRM, LLC**



JS 44 (Rev 07-16)

### 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.)

<p><b>I. (a) PLAINTIFFS</b></p> <p>Sarah Harvey</p> <p><b>(b) County of Residence of First Listed Plaintiff</b> <u>Cuyahoga</u> <i>(IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> Christopher P. Wido 216-291-4744 The Spitz Law Firm 25200 Chagrin Blvd., Suite 200, Beachwood, OH 44122</p>	<p><b>DEFENDANTS</b> National General Insurance Agency, Inc</p> <p>County of Residence of First Listed Defendant <u>Cuyahoga</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES: SET THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

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

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY - Product Liability</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care - Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS Third Party 26 USC 7609</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
<p><b>REAL PROPERTY</b></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease &amp; Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p><b>CIVIL RIGHTS</b></p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 445 Amer w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><b>Other:</b></p> <p><input type="checkbox"/> 540 Mandamus &amp; Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>		

**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 *(specify)*     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. 216

Brief description of cause  
Collective Action Complaint for Damages

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMANDS    CHECK YES only if demanded in complaint    JURY DEMAND:     Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions)*    JUDGE    DOCKET NUMBER

DATE: 11/16/2017    SIGNATURE OF ATTORNEY OF RECORD: /s/ Christopher P. Wido

FOR OFFICE USE ONLY

RECEIPT #    AMOUNT    APPLYING IFP    JUDGE    MAG. JUDGE

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

I. Civil Categories: (Please check one category only).

- 1.  General Civil
- 2.  Administrative Review/Social Security
- 3.  Habeas Corpus Death Penalty

\*If under Title 28, §2255, name the SENTENCING JUDGE:

CASE NUMBER:

II. **RELATED OR REFILED CASES** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is  RELATED to another PENDING civil case. This action is  REFILED pursuant to LR 3.1.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE. ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

**COUNTY:**

**Corporation** For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred

**COUNTY:**

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence

**COUNTY:**

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

**EASTERN DIVISION**

AKRON  
CLEVELAND

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

YOUNGSTOWN

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)

(Counties: Columbiana, Mahoning and Trumbull)

**WESTERN DIVISION**

TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

**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.

AO 440 (Rev 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
Northern District of Ohio

Sarah Harvey )

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\_\_\_\_\_  
*Plaintiff(s)*

)

v.

)

Civil Action No.

)

National General Insurance Agency, Inc.

)

)

)

)

\_\_\_\_\_  
*Defendant(s)*

)

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* National Registered Agents, Inc.  
4400 Easton Commons Way, Suite 125  
Columbus, OH 43219

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Christopher P. Wido  
The Spitz Law Firm  
25200 Chagrin Blvd., Suite 200  
Beachwood, OH 44122

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: 11/16/2017

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



AO 440 (Rev 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**  
for the  
Northern District of Ohio

Sarah Harvey

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\_\_\_\_\_  
*Plaintiff(s)*

v.

Civil Action No.

National General Insurance Agency, Inc.

\_\_\_\_\_  
*Defendant(s)*

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* National General Insurance Agency, Inc.  
800 Superior Ave.  
Cleveland, OH 44114

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Christopher P. Wido  
The Spitz Law Firm  
25200 Chagrin Blvd., Suite 200  
Beachwood, OH 44122

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

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*Signature of Clerk or Deputy Clerk*

AO 440 (Rev 06/12) Summons in a Civil Action (Page 2)

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**CONSENT TO SUE UNDER THE FLSA**

**RE: Sarah Harvey v. National General Insurance Agency, Inc. N.D. Ohio, Eastern  
Division  
Case No.**

I hereby consent to be a plaintiff in an action under the Fair Labor Standards Act, 29 U.S.C § 201 et seq, to secure unpaid minimum and overtime wages, liquidated damages, attorney's fees, cost, and other relief arising out of my employment with National General Insurance Agency, LLC, and/or any other associated party.

I authorize The Spitz Law Firm, LLC, and any associated attorneys to represent me with respect to my claims by joining my claims to an existing lawsuit against Defendants and any other associated parties. By signing and returning this consent to sue, I understand that, if accepted for representation, I will be represented by the above attorneys without prepayment of cost or attorneys fees. I understand that if Plaintiffs are successful, cost expended by attorneys on my behalf will be deducted from my settlement or judgment amount on a pro rata basis with all other plaintiffs. I understand that Plaintiffs may petition to Court for an award of fees and cost to be paid by Defendants on my behalf. I understand that the fees retained by the attorneys will be either be the amount received from Defendants or forty percent (40%) of my gross settlement or judgment, whichever is greater.

*[Handwritten Signature]* 11/16/2017

Signature \_\_\_\_\_ Date \_\_\_\_\_

*Sarah Marlene Harvey*

Name (Please Print) \_\_\_\_\_

*1578 Hunters Lake Dr E*

Street Address \_\_\_\_\_

*Cuyahoga Falls, OH 44221*

City, State, Zip Code \_\_\_\_\_

*330 546 3500*

Phone Number \_\_\_\_\_

*sharveyd@7@gmail.com*

Email Address \_\_\_\_\_

FAX to: 216.291.5744

MAIL to: ATTN: NGIC Wage Claim  
Chris P. Wido, Esq.  
The Spitz Law Firm, LLC  
25200 Chagrin Blvd., Suite 200  
Beachwood, OH 44122

EMAIL to: chris.wido@spitzlawfirm.com



## Company Information

Name	Address	Phone
National General Management Corp	5630 University Parkway Winston Salem, NC 27105 United States of America	+1 (336) 435-2000

## Payslip Information

Name	Employee ID	Pay Period Begin	Pay Period End	Check Date	Check Number
Sarah Harvey	805065	07/11/2016	07/24/2016	07/29/2016	

## Current and YTD Totals

Balance Period	Gross Pay	Pre Tax Deductions	Employee Taxes	Post Tax Deductions	Net Pay
Current	1,080.60	136.34	226.88	0.00	717.38
YTD	25,977.60	2,631.20	6,474.84	0.00	17,091.56

## Earnings

Description	Dates	Hours	Rate	Amount	YTD
Bereavement					360.00
Bonus-AIP Payout					250.00
Bonus-Direct Cctr Sales					3,925.90
Bonus-Spot Award					1,102.00
Holiday Pay					912.00
Overtime @ 1.5x	07/11/2016 - 07/24/2016	6.699998	12.00	120.60	453.99
Parking Allowance					220.00
PTO					1,433.26
Regular Pay	07/11/2016 - 07/24/2016	80.00	12.00	960.00	17,540.45
				<b>Total:</b>	<b>26,197.60</b>

## Employee Taxes

Description	Amount	YTD
OASDI	62.57	1,544.12
Medicare	14.63	361.12
Federal Withholding	110.82	3,489.83
State Tax - OH	18.68	581.67
City Tax - CLEVE	20.18	498.10
	<b>Total:</b>	<b>6,474.84</b>

## Pre Tax Deductions

Description	Amount	YTD
401K	64.84	1,558.70
Dental	11.78	176.70
HSA EE Election	5.00	75.00
Medical	52.08	781.20
Vision	2.64	39.60
	<b>Total:</b>	<b>2,631.20</b>

## Taxable Wages

Description	Amount	YTD
OASDI - Taxable Wages	1,009.10	24,905.10
Medicare - Taxable Wages	1,009.10	24,905.10



Description	Amount	YTD
Federal Withholding - Taxable Wages	944.26	23,346.40

**Withholding**

Description	Federal	Work State
Marital Status	Single	
Allowances	0	0
Additional Withholding	0	0

**Absence Plans**

Description	Accrued	Reduced	Available
PTO Plan	5.54	0.00	(9.40)

Payment	Bank	Account Name	Account Number	Amount in Pay Group Currency	Pay Group Currency
Payroll Payment: Sarah Harvey (805065) - 07/29/2016	█	█	█	717.38	USD
<b>Total:</b>				<b>717.38</b>	

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [National General Insurance Agency Accused of Wage and Hour Violations](#)

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