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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LINDA ARCHAMDEAU, individually, and
on behalf of all others similarly situated,

Plaintiffs,

vs.

NATIONAL GENERAL HOLDINGS
CORP. d/b/a NATIONAL GENERAL
INSURANCE COMPANY, a Delaware
Corporation,

Defendant.

NO.

CLASS ACTION COMPLAINT

JURY DEMAND

COMES NOW Plaintiff, by and through her attorneys Darrell L. Cochran and Kevin M. Hastings, and the law firm of Pfau Cochran Vertetis Amala PLLC, to bring a cause of action against Defendant, and allege the following:

CLASS ACTION COMPLAINT



I. PARTIES

1
2 1. Plaintiff Linda Archamdeau at all relevant times was a resident of Mason
3 County, Washington.

4 2. Defendant National General Holdings Corp. at all relevant times was a
5 Delaware Corporation doing business in Washington and other states as National General
6 Insurance Company.

7
8 **II. JURISDICTION**

9 3. This Court has subject matter jurisdiction over this action under the Class
10 Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d). At least one Plaintiff and Defendant are
11 citizens of different states, there are more than 100 Class members, and the aggregate amount
12 in controversy exceeds \$5 million, exclusive of interest and costs.

13 4. This Court has diversity jurisdiction over this action under 28 U.S.C. §
14 1332(a)(1). At least one Plaintiff and Defendant are citizens of different states, and the
15 amount in controversy exceeds \$75,000.00.

16 5. This Court additionally has subject matter jurisdiction under 28 U.S.C. §
17 1681p, which provides that “An action to enforce any liability created under this title may be
18 brought in any appropriate United States district court, without regard to the amount in
19 controversy”

20 6. This Court has pendant and supplemental subject matter jurisdiction over the
21 state law claims over the state law claims pursuant to 28 U.S.C. § 1367.

22 7. This Court has personal jurisdiction over the Defendant because Defendant is
23 licensed to and regularly does conduct business in Washington; the unlawful conduct alleged
24 in this Complaint occurred in, was directed to, and/or emanated, in part, from Washington;
25 and/or Defendant has sufficient minimum contacts with Washington.
26

1 **III. VENUE**

2 8. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial
3 part of the events or omissions giving rise to Plaintiffs' claims occurred in, was directed to,
4 and/or emanated from this District. These events and omissions included but are not limited
5 to: Plaintiff Linda Archambeau resides in this District, engaged in a consumer transaction
6 with Defendant in this District, and the facts giving rise to this lawsuit occurred in this
7 District.

8 9. Venue is additionally proper because Defendant is registered to and conducts
9 business in this District.

10 **IV. CLASS ALLEGATIONS**

11 10. Plaintiff brings this action on behalf of herself and as a class action, pursuant to
12 the provisions of Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on
13 behalf of the following Class:

14 All persons or entities to whom National General Insurance provided insurance
15 coverage for vehicles used for United States Postal Service ("USPS") rural mail
16 carrier services, and to whom National General Insurance denied said insurance
17 coverage due when vehicles used for USPS rural mail carrier services were involved
18 in an auto collision or were otherwise damaged.

19 11. Excluded from the Class are the officers and directors of National General
20 Insurance at all relevant times, members of their immediate families, and their legal
21 representatives, heirs, successors, or assigns, and any entity in which Defendant has or had a
22 controlling interest. Also excluded from the Class are all persons who make a timely election
23 to be excluded from the Class; governmental entities; and the judge to whom this case is
24 assigned and his/her immediate family. Plaintiffs reserve the right to revise the Class
25 definition based upon information learned through discovery.

26 12. Certification of Plaintiff's claims for class-wide treatment is appropriate
because Plaintiff can prove the elements of their claims on a class-wide basis using the same

1 evidence as would be used to prove those elements in individual actions alleging the same
2 claims.

3 13. This action has been brought and may be properly maintained on behalf of the
4 Class proposed herein under Federal Rule of Civil Procedure 23.

5 **A. Numerosity**

6 14. National General Insurance provides coverage nationwide and has specifically
7 targeted and marketed USPS rural mail carriers for automobile insurance coverage, therefore,
8 a significant number of whom are believed to have been in auto crashes where National
9 General Insurance then improperly and illegally denied coverage to the rural mail carriers.
10 The members of this Class are so numerous that individual joinder of all Class members is
11 impracticable. Although Plaintiff is informed and believes that there are not less than
12 thousands of members of the Class, the precise number of Class members is unknown to
13 Plaintiff, but may be ascertained from records maintained by National General Insurance.
14 Class members may be notified of the pendency of this action by recognized, Court-approved
15 notice dissemination methods, which may include U.S. mail, electronic mail, Internet
16 postings, published notice, and/or posting notice at postal centers.

17 **B. Commonality and Predominance**

18 15. This action involves common questions of law and fact, which predominate
19 over any questions affecting individual Class members, including, without limitation:

20 (a) Whether Defendant had a practice of issuing automobile liability
21 coverage to USPS rural mail carriers and subsequently denying coverage when a
22 collision occurred;

23 (b) Whether Defendant's conduct was done in bad faith and in violation of
24 Washington law;
25
26

1 (c) Whether Plaintiff and the other members of the proposed Class are
2 entitled to statutory damages, punitive damages, costs, or attorney fees for
3 Defendant's acts and conduct, and if so, in what amount;

4 **C. Typicality**

5 16. Plaintiff's claims are typical of the other Class members' claims because,
6 among other things, all Class members were comparably injured through Defendant's
7 wrongful conduct in violation of federal law that is complained of herein.

8 **D. Adequacy**

9 17. Plaintiff is an adequate Class representative rural mail carriers because her
10 interests do not conflict with the interests of the other members of the Class she seeks to
11 represent; Plaintiff has retained counsel competent and experienced in complex class action
12 litigation; and Plaintiff intends to prosecute this action vigorously. The Class's interests will
13 be fairly and adequately protected by Plaintiff and her counsel.

14 **E. Superiority**

15 18. A class action is superior to any other available means for the fair and efficient
16 adjudication of this controversy, and no unusual difficulties are likely to be encountered in the
17 management of this class action. The damages or other financial detriment suffered by
18 Plaintiff and the other Class members may be relatively small compared to the burden and
19 expense that would be required to individually litigate their claims against National General,
20 so it would be impossible or impracticable for members of the Class to individually seek
21 redress for National General's wrongful conduct.

22 19. Even if Class members could afford individual litigation, the court system
23 could not. Individualized litigation creates a potential for inconsistent or contradictory
24 judgments, and increases the delay and expense to all parties and the court system. By
25 contrast, the class action device presents far fewer management difficulties, and provides the
26

1 benefits of single adjudication, economy of scale, and comprehensive supervision by a single
2 court.

3
4 **V. FACTS**

5 20. Linda Archamdeau works as a rural mail carrier through the USPS.

6 21. On or about July 3, 2015, Ms. Archamdeau was delivering mail in her 1996
7 Jeep Cherokee when she accidentally backed into a parked vehicle owned by Mr. Keith
8 Zurn. The collision caused property damage only, in the amount of \$2,483.85.

9 22. Ms. Archamdeau tendered the claim to her insurance company, National
10 General Insurance, which denied coverage.

11 23. Ms. Archamdeau received a letter dated July 16, 2015, from National General
12 Insurance stating, in relevant part:

13 My investigation of this accident shows that our insured was operating
14 their automobile in the course of employment by the U.S. Postal Service when
15 this accident occurred.

16 Our policy does not provide coverage while the insured is in the course
17 of their employment with the United States of America, or any of its agencies
18 (i.e. U.S. Postal Service). Claims against the United States or its agencies are
19 handled by the specific agency under the guidelines of the Federal Tort Claims
20 Act.

21 24. After receiving this July 16 letter, Ms. Archamdeau contacted her supervisor at
22 the U.S. Postal Service for direction. She was told that she was not a USPS employee, and
23 thus, would not be covered under any government policy.

24 25. On August 5, 2015, Ms. Archamdeau received a letter from Allstate insurance
25 company on behalf of its insured, Mr. Zurn. Allstate explained that it contacted National
26 General, which stated that no coverage applied. Accordingly, Allstate requested a check
payable to it for the full amount of loss. In closing, Allstate stated, "If we don't hear from
you or receive your full payment within 15 days, we will forward our file to an agency that
will pursue this amount on our behalf."

1 (5) Failing to affirm or deny coverage of claims within a reasonable time after fully
2 completed proof of loss documentation has been submitted.

3 (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of
4 claims in which liability has become reasonably clear. In particular, this includes an
5 obligation to promptly pay property damage claims to innocent third parties in clear
6 liability situations. If two or more insurers share liability, they should arrange to make
7 appropriate payment, leaving to themselves the burden of apportioning liability.

8 (7) Compelling a first party claimant to initiate or submit to litigation, arbitration, or
9 appraisal to recover amounts due under an insurance policy by offering substantially
10 less than the amounts ultimately recovered in such actions or proceedings.

11 (13) Failing to promptly provide a reasonable explanation of the basis in the insurance
12 policy in relation to the facts or applicable law for denial of a claim or for the offer of
13 a compromise settlement.

14 2. WAC 284-30-370 requires that every insurer shall complete its investigation
15 into a claim within 30 days of the notice of the claim.

16 3. Defendant and its agents have violated both the letter and spirit of the WAC
17 regulations set forth above.

18 **COUNT II**
19 **VIOLATIONS OF WAC PROVISIONS**
20 **AND STATUTE**

21 4. RCW 48.17 et seq. requires that insurance companies employ properly trained
22 and licensed persons for the investigation of insurance claims.

23 5. Defendant violated each of the referenced WAC provisions and RCW 48.17 to
24 the detriment of Plaintiff.
25
26

**COUNT IV
BREACH OF CONTRACT**

6. Plaintiff is entitled to coverage under the insurance contract. Defendant and its agents, by denying the claim, have breached the contract, as a result, Plaintiff sustained damage.

**COUNT IV
DECLARATORY JUDGMENT**

This court should enter a declaratory judgment that Plaintiff is entitled to coverage under the insurance contract.

**COUNT V
BREACH OF FIDUCIARY DUTY**

7. By engaging in the acts described above, Defendant placed its own interests above those of its insureds in violation of its quasi-fiduciary duties to them.

**COUNT VI
VIOLATION OF INSURANCE
FAIR CONDUCT ACT**

8. Defendant's conduct constitutes a violation of the Washington State Insurance Fair Conduct Act, RCW 48.30.015.

**COUNT VII
NEGLIGENT AND INTENTIONAL
INFLECTION OF EMOTIONAL DISTRESS**

9. Defendant negligently and intentionally failed to properly investigate Plaintiffs' claims, conspired to undermine their insureds' legal and financial position, and negligently and intentionally failed to comply with the Washington Administrative Code. As a direct and proximate result of the negligence and intentional conduct of Defendant, the insured has suffered emotional distress and other damages in an amount to be proven at trial.

**COUNT VIII
CONSUMER PROTECTION ACT**

10. The Defendant's conduct violates RCW 19.86, et seq., of the Washington Consumer Protection Act.

**COUNT X
INSURANCE BAD FAITH**

11. The Defendant's conduct constitutes insurance bad faith.

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
LINDA ARCHAMDEAU, individually, and on behalf of all others similarly situated,
(b) County of Residence of First Listed Plaintiff Mason
(c) Attorneys (Firm Name, Address, and Telephone Number) Pfau Cochran Vertetis Amala PLLC

DEFENDANTS
NATIONAL GENERAL HOLDINGS CORP. d/b/a NATIONAL GENERAL INSURANCE COMPANY, a Delaware Corporation,
County of Residence of First Listed Defendant New Castle
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

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
1 1
2 2
3 3
4 4
5 5
6 6

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, Labor, 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(d)
Brief description of cause:
Class Action for insurance bad faith practices

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 11/15/2016 SIGNATURE OF ATTORNEY OF RECORD /s/Darrell L. Cochran

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print

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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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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

Western District of Washington

LINDA ARCHAMDEAU, individually, and on behalf of
all others similarly situated,

Plaintiff(s)

v.

NATIONAL GENERAL HOLDINGS CORP. d/b/a
NATIONAL GENERAL INSURANCE COMPANY, a
Delaware Corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) National General Holdings Corp. d/b/a National General Insurance Co.
Registered Agent: Corporation Service Company
2711 Centerville Rd. Ste. 400
Wilmington, DE 19808

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:

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:

Signature of Clerk or Deputy Clerk

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:

Print

Save As...

Reset

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 Company Facing Vehicle Insurance Lawsuit](#)
