

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ROBERT GANIER, individually,
and on behalf of all others
similarly situated,

Plaintiff,

v.

**COLLECTIVE ACTION and
CLASS ACTION**

Case No.:

RAMSGATE INSURANCE, INC.;
RAMSGATE PROGRAM MANAGERS, INC.;
1ST QUALITY INSURANCE GROUP
INC.; all D/B/A 1ST QUALITY INSURANCE
GROUP; and THOMAS RUMFELT, individually,

Defendants.

COMPLAINT & DEMAND FOR JURY TRIAL

Plaintiff, ROBERT GANIER. (hereinafter referred to as “Plaintiff” or “GANIER”), individually and on behalf of all others similarly situated, by and through his undersigned counsel, sues Defendants: RAMSGATE INSURANCE, INC., RAMSGATE INSURANCE PROGRAM MANAGERS, INC.; 1ST QUALITY INSURANCE GROUP, INC., d/b/a 1ST QUALITY INSURANCE GROUP; and THOMAS RUMFELT, individually, (hereinafter referred to as “Defendants” or “RAMSGATE”), pursuant to 29 U.S.C. 216(b), of the *Fair Labor Standards Act* (the “FLSA”) overtime wage provisions, and pursuant to a Rule 23 Class Action for recovery of unpaid wages under Count II based on violations of Florida’s Minimum Wage Act, and torts of quantum meruit, unjust enrichment, violations of the FDUTPA, and retaliation in violations of the FMWA, FLSA and FWA, and states as follows:

INTRODUCTION AND PRELIMINARY STATEMENT

1. Defendants operate a business enterprise selling insurance policies to businesses

from multiple offices and locations, and through numerous sales agents across the U.S. Defendants hire numerous Florida licensed 4-40 Customer Service representatives and other sales agents to work unlawfully as solely, independent contractor 1099 workers, and 100% commissioned inside sales representatives to sell insurance policies from inside their offices and the workers homes by telemarketing or telephonic inside sales in violation of F.S. 626.7352, the FLSA FMWA and IRS regulations.

2. Defendants operate out of multiple offices and locations, as well as utilizing workers' homes as offices, together all managed and directed by Defendant Thomas Rumfelt as a single business enterprise.

3. Defendants hired large numbers of inside sales representatives, including Plaintiff under the job titles of SAMU, a purposeful misnomer and misleading title, as Plaintiff and the SAMU were working simply as commissioned insurance sales agents, and are not UNDERWRITERS, as that term is known in insurance and mortgage industries.

4. Further, Plaintiff is only a licensed 4-40 customer service representative, but Defendants force and require Plaintiff to hold himself out to the community as some sort of underwriter and licensed insurance agent or sales representative.

5. Defendants hired Plaintiff and all others similarly situated to work in high pressured sales environments with mandatory full time work schedules, micro-management, quotas, and under willful misclassifying of Plaintiff and this class of employees as "independent contractors" in order to avoid all their obligations and taxes, workers compensation insurance, benefits, and simply put, to increase profits, reduces expenses, and evade the law.

6. Plaintiff, individually and on behalf of all similarly situated current and former inside sales representatives, were all misclassified by Defendants as independent contractors,

working under titles of SAMU or other sales agent titles. Plaintiff brings this action for violation of the Fair Labor Standards Act and Florida Minimum Wage Laws, and other violations including an action for Declaratory Relief.

7. Pursuant to a common policy and plan, Plaintiff and the class of similarly situated current and former misclassified independent contractors of Defendants have been subjected to unlawful pay practices by Defendants to avoid compensating them for all time they worked, to avoid payment of federal taxation and all benefits employees would otherwise enjoy and be entitled to, including but not limited to unemployment compensation, workers compensation, and other fringe benefits such as health insurance.

8. Defendants willfully misclassified Plaintiff and the class of similarly situated inside sales reps as “independent contractors”, and willfully refused to pay them minimum wages, overtime wages, and provide benefits as set forth in the FLSA and Minimum Wage Act and as offered to other employees by Defendants.

9. In this pleading, the title assigned to Plaintiff of Senior Account Manager Underwriter “SAMU” was used to conceal and mislead the fact that Defendants were hiring unlicensed persons to engage in the practice of soliciting and selling insurance and insurance policies, as Plaintiff was not an UNDERWRITER as that term is widely known in the insurance, mortgage and banking or financial services industries. (Discovery may reveal additional job titles and employees that should be included.)

10. In this pleading, “Defendants” means the named Defendants and any other corporation, organization or entity responsible for the unlawful employment practices complained of herein (discovery may reveal additional Defendants that should be included.)

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331, because this action involves a Federal Statute, 29 U.S.C. §216 (b), the Fair Labor Standards Act.

12. This Court has supplemental jurisdiction pursuant to 28. U.S.C. §1367, because the state court claims and torts asserted herein all seek accrued but unpaid wages and benefits, employer's share of federal income taxes and FICA, and all other damages which relate to the federal claims in this action and Defendants' misclassification of Plaintiff and the class of similarly situated as independent contractors. Thus, this Court should exercise supplemental jurisdiction because all causes arise out of and involve the same common issues of fact and law.

13. This Court has personal jurisdiction over this action, because Defendants operated substantial business in this District in Lake Wales, Polk County, Florida and the damages at issue occurred in this District.

14. Venue is proper to this Court pursuant to 29 U.S.C. §216(b), and the acts complained of accrued within this District at Defendants' primary offices in Lake Wales, Polk County Florida.

The Plaintiff

15. Plaintiff resided in Lake Wales during all material times.

16. Plaintiff worked for Defendants from on or about May 15, 2017 until on or about September 2017, and held the position of an "SAMU", which in fact was an inside sales representative selling and soliciting persons and businesses insurance policies and products, solely commissioned based and not by any fact or commonly known definition an UNDERWRITER.

17. Plaintiff's sole and primary duty was to solicit, quote, and sell insurance for

Defendants, and his compensation and job performance were measured solely upon his production and selling of insurance products.

18. At all times pertinent to this lawsuit, Plaintiff worked for the Defendants at an office at 250 E. Park Ave, Lake Wales, Florida 33853.

19. Plaintiff signed an “Independent Contractor Services Agreement” with the Defendants, and performed work at the principal place of Business for Defendants, as well as working from home, and under the control and direction of Thomas Rumfelt., believed to be one of the primary shareholders of all corporate Defendants, and the primary officer in all corporate Defendants. A copy of this Agreement is attached as Exhibit “A.”

20. Plaintiff was classified by Defendants to be a full-time, inside sales representative, exempt as an independent contractor.

21. The “independent contractor” agreement Defendants forced Plaintiff to sign, classifies him as an “AGENT”, when he is not a licensed insurance agent. Thus, the entire agreement is void as executed for an illegal purpose contrary to Florida law.

22. Said another way, a contract between two parties to do something illegal, and the non-breaching party cannot sue or file a lawsuit to enforce the terms of an illegal contract. By way of an example, if Defendants hire a contractor to burn down a building, Defendants cannot sue the contractors if they fail to perform and vice versa.

23. Defendants required Plaintiff, and his job commanded, him to routinely work over forty (40) hours per week. Defendants also required to perform the majority of all work at the Defendants’ offices, and to work a set schedule set by the Defendants throughout his employment selling insurance policies and products.

24. Moreover, pursuant to F.S. 626.7352, licensed 4-40 customer service

representatives must perform work at the Defendants offices, not their homes.

25. Plaintiff was hired in May, 2017, and was terminated in September 2017 by Defendants for taking time off due to Hurricane IRMA, and in retaliation for opposing numerous unlawful pay practices of the Defendants, or due to Defendants perception and assumption that Plaintiff contacted officials at the State of Florida Department of Insurance or financial services, or the Insurance Commissioner's office to report and complain about illegal acts of Defendants.

26. Plaintiff was at first given a weekly DRAW or ADVANCE against commissions of \$600.00 per week up until August, 2017, and then changed to a \$300 per week draw against commission basis.

27. Defendants asserted that Plaintiffs' entitlement to the \$600.00 per week advance had expired.

28. Plaintiff was supposedly entitled to weekly or bi-weekly commissions based upon his sales of insurance policies but Plaintiff was never paid any of his commissions or, Defendants kept to commissions to offset the DRAW or Advance taken or provided by Defendants to Plaintiffs.

29. In either case, whether a draw or advance label, this essentially is a loan against commissions earned and not the payment of any minimum wages or overtime wages in fact and not treated as such by Defendants under state and federal wage laws.

30. In either case, Defendants purposefully never presented Plaintiff with any reconciliations or commission statements which to understand or figure out what was happening in order to confuse and mislead Plaintiff, and avoid questions and challenges about their unlawfulness of their pay practices.

31. Upon information and belief, Defendants treated all inside sales representatives, including SAMU from 2010 to the present in the same unlawful manner as independent contractors,

when all should have been employees under the FLSA, state wage laws, F.S. 626.7354, or IRS laws and regulations and the common law.

The Defendants

32. RAMSGATE INSURANCE, INC. (“Ramsgate”) is a Florida For Profit Corporation, with its principal place of business located at 250 E. Park Avenue, Lake Wales, Florida 33853. The company is owned, managed, and controlled by Defendant Thomas Rumfelt (“Rumfelt”). Defendant may be served through its registered Agent, Tula Haff, Esq., at 135 North 6th St., Haines City, Florida 33844

33. RAMSGATE PROGRAM MANAGERS, INC. (“RPMI”) is a Florida For Profit Corporation, with its principal place of business located at 250 E Park Ave, Lake Wales, Florida 33853. The company is owned, managed, and controlled by Defendant Thomas Rumfelt (“Rumfelt”). Defendant may be served through its registered Agent, Tula Haff, Esq. at 135 North 6th St., Haines City, Florida 33844. RPMI is a joint or co-employer of Plaintiff.

34. 1ST QUALITY INSURANCE GROUP, INC. is a Florida For Profit Corporation, with its principal place of business located at 250 E Park Ave, Lake Wales, Florida 33853. The company is owned, managed, and controlled by Defendant Thomas Rumfelt (“Rumfelt”). Defendant may be served through its registered agent, Tula Haff, Esq., at 135 North 6th Street, Haines City, Florida 33844. Defendant may be served through its registered Agent, Tula Haff, Esq. at 135 North 6th St., Haines City, Florida 33844. 1st Quality Insurance Group Inc. is a joint or co-employer of Plaintiff.

35. Upon information and belief, Defendants operated all businesses at a single principal place of business, with the same officers, owners and sharing of employees, independent contractors and all work being performed as single common business enterprise.

36. RUMFELT is an Employer within the meaning of the FLSA and the FMWA as he set the compensation plans, executed the Plaintiff's independent contractor agreement, drafted, and approved the agreement, set the parameters of the Plaintiff's work, schedule and job duties, and is the person responsible for willfully misclassifying Plaintiff and all others similarly situated as independent contractors, violating F.S. 629.735 and all the unlawful pay practices complained of herein.

37. Defendants' core services are selling commercial and business insurance policies in "boiler-room" type environments from which Rumfelt, his family and his companies hired numerous employees to work in high pressure, cold calling atmosphere selling insurance policies using unscrupulous, misleading and high pressure tactics and willfully underpaying and misclassifying them as independent contractors and exempt employees in violation of IRS laws, FICA laws, the FLSA, the FMWA and F.S. 626.7354.

38. Defendants qualify for and are subject to both traditional and enterprise coverage under the FLSA for the relevant time periods pertinent to this Complaint. Said differently, Defendants are subject to the Fair Labor Standards Act and the FMWA.

39. Defendants also employ ten (10) or more employees, with or without counting the falsely and fraudulently labeled independent contractors, and are employers within the meaning of the Florida Minimum Wage Act.

40. Defendants are insurance agents and brokers and subject to F.S. 626.7354.

41. At all relevant times Defendants have been and continue to be an employers engaged in interstate commerce and/or the production of goods for commerce, within the meaning of FLSA 29 U.S.C. §§ 206(a) and 207(a), selling insurance policies interstate.

42. Ganier was an employee of Defendants within the meaning of FLSA § 203.

43. Upon information and belief the Defendant corporations individually and combined have business revenues exceeding \$500,000.00 annually.

GENERAL ALLEGATIONS

44. The FLSA provides that, with certain exceptions, employers must pay employees a minimum hourly wage for all compensable hours worked and overtime of at least one and one-half times their regular hourly rate of pay for any hours worked over forty in a week. *See* 29 U.S.C. §§ 206, 207(a)(1). The Act exempts certain employees from the minimum wage and overtime requirements. However, an “employer who claims an exemption from the FLSA has the burden of showing that the exemption applies” *See Donovan v. Nekton, Inc.*, 703 F.2d 1148, 1151 (9th Cir. 1983).

45. Ganier and the Class of similarly situated sales representatives cannot be classified as exempt under the outside sales, execute, or administrative exemptions.

46. Further, Defendants cannot rely upon the administrative or executive exemptions as the Inside Sales Agent position fails the salary basis test as Ganier was never paid a salary of at least \$455.00 per week.

47. Regardless, the position of an inside sales representative is not an exempt position, and does not satisfy any of the elements of an executive or administrative exemption. Moreover, the sales work of Ganier was completely inside telephonic sales.

48. As a sales representative, Plaintiff had the responsibilities of selling insurance policies to customers from leads generated by Defendants, and distributed to the sales representatives.

49. Plaintiff was given access to databases to present customers with quotes for insurance policies and products.

50. Defendants set quotas, production goals, and other metrics which if not met, would result in termination of Plaintiff's employment.

51. Plaintiff and the class of similarly situated employees were all willfully misclassified by Defendants as independent contractors.

52. Plaintiff and the class of similarly situated employees were not independent contractors, as the Defendants controlled all aspects of their work and employment, set work schedules, controlled pay, could not negotiate prices with customers, could not sign and bind customers to insurance policies, and more importantly, as licensed 4-40 customer service representatives, by law must be employees.

53. Plaintiff and the class of similarly situated employees were not permitted to work simultaneously for competitors, set their own work schedules and did not share in any profits or losses.

54. Plaintiff and the class of similarly situated were micro managed and were highly monitored on the number of emails and telephone calls made.

55. After Defendants suspended Plaintiff without pay for approximately 1.5 weeks in August, 2017, Defendant began to further scrutinize and retaliate and treat Plaintiff differently by requiring him to DAILY copy them on all emails sent, report all phone calls made each day and required Plaintiff to perform all work at their offices.

56. Defendants also cut Plaintiff's "draw" in half to \$300.00 per week in further retaliation and to coerce Plaintiff to quit or resign.

57. If Plaintiff did not earn \$300.00 in commissions, Defendants refused to pay him the full \$300.00. However, in fact Defendants never paid Plaintiff any money again after they dropped his draw or advance to \$300.00 in August, 2017.

58. Defendants had mandatory full time work schedules for Plaintiff and all the sales representatives, and they were not permitted to simply decide which days to work, what to sell, what not to sell, vary their draw amounts or commission rates, nor negotiate prices with the customers.

59. Plaintiff and the class did not have their own contracts with the insurance companies whose products they were selling, nor could they sell whatever companies they chose and were not licensed to sell insurance.

60. Plaintiff and the class did not set their own compensation, or negotiate their rates.

61. Plaintiff and the class could not come and go as they pleased, and required approval or permission to take time off or vary their work hours.

62. Plaintiff and the class did not provide any of their own materials, databases to sell the products, and were not permitted to sell for other companies, or for other agencies, or competitors of Defendants.

63. Plaintiff and the class of similarly situated used all Defendants resources, programs, staff and employees to perform their work and were required at all times material to hold themselves out and market themselves as SAMU for Defendants.

64. Defendants hired and fired inside sales representatives routinely, and sales representatives would come and go frequently in this high pressure, “boiler-room” type atmosphere set by Defendants and were closely monitored and supervised.

65. By all standards, rules and regulations, including the IRS codes and regulations, the FLSA, and the FMWA, Plaintiff and the class were “employees” and not independent contractors.

66. Further, pursuant to F.S. 626.7352, Defendant was required to treat licensed 4-40 customer service representatives as salaried “employees” and NOT pay them solely on a

commissioned basis or on a commissioned basis at all, and not as independent contractors.

67. Defendants knew Plaintiff and the class were actually employees, and willfully violating F.S. 626.7354 but willfully schemed to misclassify them as independent contractors to avoid having to pay overtime wages, workers compensation insurance, unemployment benefits, fringe benefits and required FICA (federal payroll taxes).

68. During Ganier's employment with Defendants it was necessary to work routinely greater than forty (40) hours in a week to meet the sales goals and quotas, and to earn commissions to financially survive.

69. Defendants knew that Ganier and the other sales agents were working over 40 hours per week routinely, and encouraged it. Defendants did not clock or record the work hours of Ganier and the class.

70. When Plaintiff was hired, he, like all other sales representatives, was lead to believe this was a 40 hour per week job and that he was not being paid any hourly rate or salary, but was given a draw against commission. However, shortly after he commenced working, Defendants made it clear that he, along with all sales representatives were expected to work as many hours as necessary to meet goals and quotas or they would be fired.

71. Ganier and the class had to routinely attend sales meetings and report their progress with Defendants.

72. Upon information and belief, Defendants have employed 20 or more inside sales representatives at a single time from their multiple locations or homes, and the class consists of upwards of 100 or more persons in the past three (3) years given the high turnover and more over the past 5 years.

73. All company policies, pay-practices and employment oversight is conducted from

the corporate office in Lake Wales in a uniform policy for all other offices and inside sales representatives.

74. Defendants are required by the Fair Labor Standards Act to compensate Plaintiff and the putative class of similarly situated for all hours worked both minimum wages and overtime wages.

75. Defendants willfully engaged in practices that denied Plaintiff and other similarly situated employee's overtime compensation and minimum wages under the FLSA.

76. Defendants are required, pursuant to the FLSA, to track and record the work hours for all non-exempt employees, and in this instance failed to do so.

77. Defendants do not and cannot have a good faith basis under the FLSA, the FWMA, the IRS regulations, and F.S. 626.7354 or any other law for misclassifying Plaintiff and the putative class of similarly situated as independent contractors and failing to pay them minimum wages and overtime wages.

78. Defendants have unlawfully attempted to contract around the requirements of the State and Federal Minimum wage by requiring all persons hired as SAMU, and other positions, to work as independent contractors. Said differently, the independent contractor agreements Defendant required all workers to sign is a contract to perform illegal acts, unenforceable and of nil- affect on Plaintiff and the class of similarly situated rights to minimum wages and overtime wages under state and federal laws.

COLLECTIVE ACTION ALLEGATIONS

79. Ganier brings this suit pursuant to Section 216(b) of the FLSA for recovery of minimum wages and overtime wages, on behalf of a collective class of similarly situated persons composed of:

All persons currently working for Ramsgate Insurance, Inc., Ramsgate Program Managers, Inc. or 1st Quality Insurance Group, Inc. or who were previously performing work for these entities within a three (3) year period preceding the filing of this lawsuit, as inside sales representatives or sales agents under the title of Senior Account Manager Underwriters or working under any other titles such as agents selling and quoting insurance policies and who were classified as independent contractors.

80. Ganier alleges on behalf of the Putative Class who elect to opt-in to this action that they are entitled to unpaid overtime wages, as required by 29 U.S.C. § 207, minimum wages under Section 206, and unpaid wages as required by §448.08, *Florida Statutes*.

81. The exact number of the members of the Class is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery.

82. As a result of Defendants' violations, Ganier and members of the Class were unlawfully and grossly under-compensated for their work in violation of the FLSA, and were subjected to unlawful pay practices by being excluded from fringe benefits offered to employees, exclusion for Social Security earnings and coverage, exclusion from unemployment insurance, exclusion from workers' compensation coverage, and had to pay self employment or higher taxes than lawfully required.

83. Although the FLSA provides for certain exemptions to the mandates of paying minimum wages and overtime compensation, no exemptions apply in the instant matter to Plaintiff and the class of similarly situated.

84. Regardless, by law in Florida at least to those working in Florida, Plaintiff and others were as licensed 4-40 customer service representatives, NOT licensed sales agents, required to be paid as employees on a salary basis and not a straight commission basis.

85. Defendants thumbed their noses at all government laws and regulations including

IRS regulations, the FLSA, the FWMA, F.S. 626.7354, Chapter 440, and FICA.

86. Unless proven to be exempt from the protection of the FLSA, all employees are entitled to premium overtime pay for work in excess of forty (40) hours per week and at least the minimum wage for all hours worked.

87. Unless proven to be exempt from the protection of the FLSA, all employees are entitled to be paid minimum wages under the FLSA and FWMA for all hours worked.

88. Ganier and members of the Class were/are required to work overtime hours without compensation, in order for Defendants to maximize profits by selling insurance policies and save money on labor costs rather than employing licensed insurance agents to work as employees.

89. Evidence reflecting the precise number of overtime hours worked by Ganier and every other member of the Class, as well as the applicable compensation rates, are partly in the possession of the Defendants. If records are available, Ganier and members of the Class may establish the hours they worked solely by their testimony, and the burden of overcoming such testimony shifts to the employer. *See Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946).

90. Ganier will fairly and adequately protect the interests of the Class and has retained counsel that is experienced and competent in class/collective actions and employment litigation. Ganier has no interest that is contrary to, or in conflict with, members of the Class.

91. A collective action suit, such as the instant one, is superior to other available means for fair and efficient adjudication of this lawsuit. The damages suffered by individual members of the Class may be relatively small when compared to the expense and burden of litigation, making it virtually impossible for members of the Class to individually seek redress for the wrongs done to them.

92. A collective action is, therefore, superior to other available methods for the fair and

efficient adjudication of the controversy. Absent these actions, the members of the Class likely will not obtain redress of their injuries.

93. Furthermore, even if any member of the Class could afford individual litigation against Defendants, it would be unduly burdensome to the judicial system. The instant methodology, when compared to voluminous individual actions, has fewer management difficulties and provides the benefits of unitary adjudication, economies of scale, and comprehensive supervision by a single court. Concentrating this litigation in one forum will promote judicial economy and parity among the claims of individual members of the Class, and provide for judicial consistency.

94. There is a well-defined community of interest in the questions of law and fact affecting the Class as a whole. The question of law and fact common to each of the Class predominate over any questions affecting solely individual members of the action. Among common questions of law and fact are:

- a. Whether Ganier and the members of the Putative Class are employees within the applicable meaning of the FLSA and not independent contractors;
- b. Whether Defendants failed to pay Ganier and the members of the Class all overtime compensation due to them by virtue of their common unlawful pay practices;
- c. Whether Defendants failed to pay Ganier and the members of the class minimum wages due to them by virtue of their common, unlawful pay practices;
- d. Whether Defendants failed to maintain and preserve accurate and true

records of all hours worked and wages earned by the Class; and

- e. Whether Defendants have willfully and without good faith, misclassified Ganier and the class of similarly situated inside sales representatives as independent contractors in violation of the FLSA.

95. Ganier knows of no difficulty that will be encountered in the management of this litigation as a collective action or that would preclude a single trier of fact from determining the damages owed to the class.

96. Pursuant to 20 U.S.C. § 216(b), Ganier seeks to prosecute the FLSA claims as a collective action on behalf of the Class.

97. Notice of the pendency and any resolution of this action can be provided to Putative members of the class by mail, print, and/or internet publication.

98. Ganier brings this action as a collective action pursuant Section 216(b) of the FLSA.

RULE 23 CLASS ALLEGATIONS

99. Ganier brings a second claim individually and on behalf of a class of similarly situated persons composed pursuant to Rule 23(b)(1), 23(b)(3) for recovery of Minimum wages in the State of Florida for:

All persons currently working for Ramsgate Insurance, Inc., Ramsgate Program Managers, Inc. or 1st Quality Insurance Group, Inc. or who were previously performing work for these entities within a five (5) year period preceding the filing of this lawsuit working in Florida, who acted as inside sales representatives or sales agents working under any titles including SAMU, selling insurance policies who were not compensated the legal minimum wage for each hour worked.

100. Ganier alleges on behalf of himself and the Putative Class who elect to opt-in to

this action that they are entitled to unpaid wages as required by §448.110, Florida Statutes, The Florida Minimum Wage Act, and owed compensation and other monies under torts of quantum meruit and unjust enrichment and breach of contract.

101. **NUMEROSITY:** The persons in this Class are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, upon information and belief, Defendants employ approximately 20 or more sales representatives at a given time, across three offices and considering the prior five (5) years with turnover, the number of employees who would conceivably make up this class is upwards of 100 or more, thus satisfying the numerosity requirement for the Class.

102. **COMMONALITY:** There are questions of law and fact common to the Rule 23 Class that predominate over any questions solely affecting individual members of the Class, including but not limited to:

- a. Whether Defendants misclassified Plaintiff and the Class as independent contractors in violation of the Florida Minimum Wage Act.
- b. Whether Defendants unlawfully failed to pay the minimum wages as required by §448.110, Florida Statutes when their commissions fell short of satisfying the minimum wage requirements for any workweek.
- c. Whether Defendants violated F.S. 626.7354 and are required to reclassify Plaintiff and the class of employees and pay them the values for all needlessly and unlawfully incurred taxes, values for loss of fringe benefits, loss of unemployment benefits etc.
- d. Whether Defendants violated the wage laws intentionally and in bad faith.
- e. Whether Defendants actions constitute violations of various tort claims

including unjust enrichment and quantum meruit.

- f. Whether Defendants actions are deceptive and unfair trade practices in violation of FDUTPA.

103. **TYPICALITY:** Plaintiff's claims are typical of those of the Class. Plaintiff, like other class members, was subjected to Defendants' policy and practice of improperly paying all wages earned by employees in violation of Florida Law. Upon information and belief, Defendants have willfully misclassified all inside sales representatives as independent contractors for many years. The Defendants refuse to accurately track hours worked and then fail to do any accounting to provide the inside sale representatives minimum wage for each hour worked. Plaintiff and the Putative Class have similar violations alleged because both are based upon Defendants unlawful conduct of willful misclassification of its employees as independent contractors in order to evade state and federal wage laws. These claims are intertwined with the overtime violations and both Plaintiff and the Class have been purposefully underpaid by Defendants.

104. **ADEQUACY:** Plaintiff will fairly and adequately protect the interests of the Class and has retained counsel that is experienced and competent in similar class actions and employment litigation. Plaintiff has no interest that is contrary to, or in conflict with, members of the Class, and Plaintiff is prepared to act on behalf of the Class and serve as class representative.

105. A class action, such as the instant one, is superior to other available methods for the fair and efficient adjudication of this controversy. The damages suffered by individual members of the class may be relatively small when compared with the expense and burden of litigation, making it virtually impossible for members of the Class to individually seek redress for the wrongs done to them. One person may have damages of \$250, while others, over the course of years, could be as much as \$10,000. The total damages at issue for the class are over \$75,000.00.

106. Furthermore, if every member of the Class brought their cases individually against Defendants, it would be create a morass that was unduly burdensome on the judicial system. The class action is most efficient way to address this controversy on behalf of such a large group of people.

107. A ruling that one member of the class was an employee under the FLSA or FMWA, or mandated under F.S. 626.7354 to be employees, and thus due minimum wages under Florida law, and the values of all other lost benefits and reimbursement for self employment taxes would be dispositive of the interests of all other class members, as each would be owed minimum wage for whatever hours they worked.

COUNT I
UNPAID OVERTIME DUE UNDER THE FLSA DUE PLAINTIFF AND THE CLASS OF
SIMILARLY SITUATED: 216(b) COLLECTIVE ACTION

108. Ganier re-alleges and incorporates by reference paragraphs 1 through 107, as if fully set forth in this Count.

109. At all relevant times, Defendants employed Ganier within the meaning of the FLSA.

110. Defendants classified Plaintiff and all inside sales representatives as independent contracts refusing to pay or failing to pay overtime compensation due to Plaintiff and the class of inside sales representatives for hours worked in excess of forty (40) hours per week at rates of one and half times their regular rate of pay.

111. Plaintiff regularly worked overtime hours without being paid any compensation for his work hours, as he was solely a commissioned sales representative.

112. Defendants have willfully violated the FLSA by misclassifying its employees, specifically Plaintiff and the class of inside sales representatives, as independent contractors and

knew in all respects that they were employees and not independent contractors.

113. Defendants' failure to pay Ganier and all similarly situated inside sales representatives overtime compensation at a rate no less than time and one-half (1.5) times their regular rate of pay for hours worked over forty (40) in a given workweek, is a violation of the FLSA, in particular, 29, U.S.C. § 207.

114. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(A).

115. Due to Defendants' FLSA violations, Ganier and the class of similarly situated employees has suffered damages, and are entitled to recover from Defendants the unpaid overtime compensation, an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

116. Defendants do not have a good faith basis under the FLSA for misclassifying Plaintiff and the class of similarly situated as independent contractors, and as exempt from the overtime wage provisions of the FLSA, and for not paying Plaintiff and the class of similarly situated, overtime wages for all hours worked over 40 in a work week.

117. Defendants knew that Plaintiff and the class of similarly situated worked more than 40 hours at times.

COUNT II
UNPAID MINIMUM WAGES UNDER SECTION 206 OF THE FLSA FOR
PLAINTIFF AND THE CLASS OF SIMILARLY SITUATED COLLECTIVE
ACTION

118. Ganier re-alleges and incorporate by reference paragraphs 1 through 107 as if fully set forth in this Count.

119. Plaintiff and all other inside sales representatives, including SAMU were entitled

to be paid the mandatory and applicable minimum wage rate for all hours worked during their employment with Defendants throughout their employment. Although Defendants classified Plaintiff and all other inside sales representatives as independent contractors, they were employees under the FLSA, Florida law and the IRS codes.

120. Plaintiff and all inside sales representatives were required to be compensated at the applicable minimum wage rate for all hours worked during their term of employment with Defendants.

121. As a result of Defendants' intentional, willful and unlawful violations of the Florida Minimum Wage Act Plaintiff and all others similarly situated have suffered damages for all unpaid minimum wages owed plus liquidated damages.

122. Defendants do not have a good faith basis for misclassifying Plaintiff and all other inside sales reps as independent contractors, such that Plaintiff and the class of similarly situated are entitled to liquidated damages.

123. Defendants' actions are willful violations of the FLSA.

124. Plaintiff and all other similarly situated inside sales reps have been harmed, and not been paid minimum wages for all hours worked.

CLASS ACTION CLAIMS AND COUNTS PURSUANT TO RULE 23

**COUNT III VIOLATION OF FLORIDA'S MINIMUM WAGE ACT AND ARTICLE 10
SECTION 24 OF THE FLORIDA CONSTITUTION**

125. Ganier re-alleges and incorporates herein paragraphs 1 through 107 as if fully set forth in this Count.

126. Plaintiff and all other SAMU or other persons working and performing work for Defendants in the State of Florida were improperly, unlawfully and without justification misclassified as independent contractors.

127. Plaintiff had a set set schedule, and did not have the authority and discretion to vary and alter his schedule as he saw fit.

128. Plaintiff did not share in profits and losses of the company.

129. The Independent contractor agreement Plaintiff signed is a contract to perform illegal acts cannot and does not negate the FLSA, FMWA, and Article 10, Section 24 of the Florida Constitution.

130. Defendant has unlawfully sought to contract around binding state and federal wage laws.

131. The independent contractor agreement is a contract to perform illegal acts by Defendants and is thus unlawful, for an unlawful purpose, and unenforceable.

132. Defendants controlled all parameters of Plaintiff's employment, and that of all other SAMU working in Florida.

133. Plaintiff was not in his own business, and was also contracted by Defendants to perform illegal acts: selling insurance policies without an insurance license and in violation of F.S. 626.7354, which requires Defendants to directly employ 4-40 Customer service reps and pay them a salary or hourly wage and not on commission basis.

134. Plaintiff worked without being paid by Defendants the lawful minimum wage for all hours worked up to 40 in a work week.

135. Plaintiff was given a draw or advance, not a minimum wage, which initially was \$600 per week, but then reduced to \$300.00 per week, and less than full minimum wage for all hours worked.

136. Upon information and belief, numerous other SAMU mis-classified as independent contractors who failed to earn sufficient commissions to cover the draw or advance likewise did not

receive minimum wages for all hours worked up through 40 in a work week.

COUNT IV UNJUST ENRICHMENT

137. Plaintiff, and all others similarly situated, herein incorporate by reference all allegations contained in paragraphs 1 through 107 as if fully set forth verbatim.

138. Plaintiff and all others similarly situated conferred upon Defendants a benefit by performing sales work without being paid for all hours worked.

139. Plaintiff similarly, was never paid all his commissions, never given a full commission reconciliation, and is owed commissions.

140. Defendants received the benefits of the work efforts of Plaintiff and all others similarly situated but failed to compensate them for all hours worked, and pay all commissions earned.

141. Defendant's retention of the commissions or alternatively, minimum wages and overtime wages for the work performed by Plaintiff and the class of similar situated is unjust and Defendants are unlawfully, and unfairly unjustly enriched.

142. Through Defendants' various sham independent contractor agreements, and other unlawful acts including employing non licensed 4-40 customer service agents to sell insurance policies in violation of Florida law and other state laws, Defendants sought to evade all state and federal laws requiring Defendants to treat Plaintiff and the class of similar situated as employees.

143. Plaintiff and the class of similarly situated were not given a choice to work as W-2, direct employees, and they did not bargain or negotiate for the terms and conditions of their employment or in the independent contactor agreement.

144. Defendant created all terms and conditions of employment, which were not subject to negotiations and presented to Plaintiff and the class of similarly situated on a take it or leave it

basis.

145. Defendants' actions of willfully violations IRS laws, workers' compensation laws, state licensing laws, state and federal wage laws, and in not paying all the commissions required to be paid while avoiding providing full benefits, coverage under the IRS and Social Security laws, workers' compensation acts and unemployment benefits is inequitable, contrary to the fundamental principals of justice and equity such that Plaintiff and the class of similarly situated should be entitled to recover all wages, increased taxes and loss of other benefits and values which employees would be entitled to.

146. At the unfair expense of Plaintiffs work and efforts, Defendants have unlawfully and willfully violated IRS laws and regulations, unfairly shifted their responsibility for paying FICA taxes and other benefits normally conferred upon employees, including the loss of value of SS earnings and qualification periods for unemployment benefits, and other fringe benefits.

COUNTY V QUANTUM MERUIT

147. Plaintiff, and all others similarly situated, herein incorporate by reference all allegations contained in paragraphs 1 through 107 as if fully set forth verbatim.

148. Plaintiff and all others similarly situated, performed work for Defendants off the clock, and treated as independent contactors in violations of IRS laws State Minimum Wage laws and the FLSA.

149. Defendants accepted the work performed by Plaintiff and the class of similarly situated but Defendants refused to pay them for all hours worked, and for all commissions earned.

150. Through Defendants' various sham independent contractor agreements, and other unlawful acts including employing non licensed 4-40 customer service agents to sell insurance policies in violation of Florida law and other state laws, Defendants sought to evade all state and

federal laws requiring Defendants to treat Plaintiff and the class of similar situated as employees.

151. Plaintiff and the class of similarly situated were not given a choice to work as W-2, direct employees, and they did not bargain or negotiate for the terms and conditions of their employment or in the independent contractor agreement.

152. Defendant created all terms and conditions of employment, which were not subject to negotiations and presented to Plaintiff and the class of similarly situated on a take it or leave it basis.

153. Defendants actions of willfully violating IRS laws, workers' compensation laws, state licensing laws, state and federal wage laws, and in not paying all the commissions required to be paid while avoiding providing full benefits, coverage under the IRS and Social Security laws, workers compensation acts and unemployment benefits is inequitable, contrary to the fundamental principals of justice and equity such that Plaintiff and the class of similarly situated should be entitled to recover all wages, increased taxes and loss of other benefits and values which employees would be entitled to.

154. As a direct and proximate result of Defendants' unlawful misclassification of Plaintiff and the class of similar situated as independent contractors, Plaintiff has lost the value of all fringe benefits, FICA share normally paid by employees, the value of loss of Social Security earnings, unemployment benefits, as well as minimum wages and overtime wages, loss of fringe benefits and commissions earned.

155. Plaintiff seeks determination of this Court pursuant to the common law, and IRS 20 factor test of who is an independent contractor.

156. A worker is an employee if he or she is economically dependent on the employer, whereas a worker is an independent contractor if he or she is in business for himself or herself. *See*

the FLSA. Likewise, Defendants “employ” plaintiff as they permit him to suffer or permit him to work for them.

COUNT VI
DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. Section 2201, and CHAPTER
86, FLORIDA STATUTES

157. Plaintiff adopts, reincorporates and realleges paragraphs 1 through 107 as if fully set forth herein verbatim.

158. Plaintiff, individually and on behalf of all others similarly situated, seeks declaratory relief and determination that the independent contractor agreement violates F.S. 626.735, the FLSA, IRS laws and regulations, and the Florida Minimum Wage Act, and is a contract to perform illegal acts and unenforceable as a matter of law.

159. Pursuant to F.S. 86.11 “the existence of another adequate remedy does not preclude a judgment for declaratory relief. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar. The court has power to give as full and complete equitable relief as it would have had if such proceeding had been instituted as an action in chancery.

160. The Plaintiff has been deprived of his rights to wages and benefits conferred by the FLSA, FWMA, and as employees of Defendants or any other company in the state, and Defendants have unlawfully, unjustly and willfully misclassified Plaintiff as an independent contractor.

161. Plaintiff seeks a declaration of this Court determining that the independent contractor agreement to be unlawful as a whole, and for an illegal purpose, and in violation of F.S. 626.735, IRS laws on who is an independent contractor, as well as determinations under the FMWA and FLSA.

162. Pursuant to the Restatement (Third) of Restitution & Unjust Enrichment § 2(2) cmt. c. Relief may be available on a theory of unjust enrichment, for example, when a supposed **contract** is "**illegal**," id. § 32, when it is **unenforceable** by reason of fraud, duress, or undue influence, id. § 31 cmt. a., when a party to the **contract** was incapable of entering it, id. § 33, or when the **contract** is subject to [*26] avoidance by reason of mistake or supervening change of circumstances, id. § 34.

163. Plaintiff also seeks a determination that he is and was at all times material, an Employee, and not an independent contractor, and that he is and was entitled to all rights and protections under state and federal laws as an employee.

164. Plaintiff seeks a determination and declaration by this Court that the independent contractor agreement is unconscionable, against public policy, unenforceable, illegal, for for an illegal purpose in violation of contract laws.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ROBERT GANIER, Individually and on behalf of all others similarly situated prays for the following relief:

- a. An order designating this action as a collective action and issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated individuals with instructions to permit them to assert timely FLSA claims in this action by filing individual Consents to Join pursuant to §216(b), and that this notice be sent to all past and present employees of Defendants at any time during the three year period immediately preceding the filing of this suit, through and including the date of this Court's issuance of the Court Supervised Notice;
- b. An order designating this action as a class action and issuance of a notice to the class;
- c. An order appointing a Plaintiff Ganier as the class representative and Mitchell L. Feldman Esq. as counsel to represent the Putative Class of similarly situated inside sales representatives;

- d. A judgment finding that Defendants willfully and in bad faith violated the overtime compensation provisions of the FLSA and the Florida Minimum Wage Act;
- e. An order instructing Defendants cease the unlawfully employment practices under the FLSA and Florida Law;
- f. That the Court award Plaintiff Ganier and the members of the putative Class, overtime compensation for all the previous hours worked over forty (40) hours that they did not receive at least one and one-half time compensation for, in any given week during the past three years, AND liquidated damages of an equal amount of the owed overtime; in addition to penalties and interest on said award pursuant to §216 of the FLSA;
- g. That the Court award Plaintiff Ganier and the members of the putative Class the minimum wage compensation for all previous hours worked for which they did not receive minimum wage for the past five years, AND liquidated damages of an equal amount of the owed minimum wage amounts in addition to any penalties and interest on said award.
- h. That the Court award Plaintiff Ganier a collective action and class action representative incentive fee for his efforts and time dedicated to bringing justice through this action and the extra efforts he put in for leading this litigation;
- i. An order awarding attorneys' fees and costs pursuant to § 216 of the FLSA and the Florida Minimum Wage Act; and,
- j. That the Court award any other legal and equitable relief as this Court may deem appropriate.

COUNT VII
VIOLATION OF THE FLORIDA WHISTLEBLOWER ACT F.S. 448.102

165. Plaintiff opposed and challenged Defendants actions of paying him on a commission only basis as a violation of F.S. 626.7354.

166. Someone contacted the Florida Department of Insurance or Insurance Commission or the Florida Department of Financial services to make a complaint or file a complaint, which Defendants concluded and assumed it was Plaintiff.

167. Defendants retaliated against Plaintiff, by then suspending Plaintiff's employment without pay for upwards of a week and a half or more, causing Plaintiff to lose out of potentially earning more commissions and in not being paid his advance or draw.

168. Thereafter, Defendants unilaterally, and adversely changed numerous requirements of his job and the terms and conditions of Plaintiff's employment.

169. Plaintiff was permitted to return to work under the requirement that he copy Rumfelt on all emails.

170. Plaintiff was required to give Rumfelt and Defendants his daily phone logs and report all actions and conduct each day.

171. Plaintiff was required to perform all work at Defendants' offices.

172. Defendants cut Plaintiff's draw or advance against commissions down to \$300.00 per week, under the required minimum wage for a 40 hour work week.

173. Defendants refused to pay Plaintiff any commissions earned or provide a commissions reconciliations statement.

174. Defendants harassed, micro-managed, and willfully intimidate Plaintiff in efforts to get him to quit or resign.

175. All Defendants actions qualify as adverse employment actions in violation of the FWA.

176. Defendants treated Plaintiff differently than his peers and other SAMU as a result of Defendant's intentions to retaliate against Plaintiff.

177. Defendants then terminated Plaintiff's employment in August, 2017, refusing to permit him to have time off for evacuating during the time of hurricane IRMA, despite allegedly

an independent contractor with freedoms and discretions of an independent contractor, or refusing to permit Plaintiff to return to work after his evacuation.

178. In either case, Defendants have terminated Plaintiff's employment.

179. As a direct and proximate result of Defendants unlawful, retaliatory actions, Plaintiff has suffered loss of income, humiliation, mental anguish, pain and suffering and other consequential damages

WHEREFORE, Plaintiff ROBERT GANIER seeks all damages available at law and in equity this court deems just and fair, and an award of reasonable attorney's fees and expenses of litigation pursuant to F.S 448.104.

Respectfully submitted,

Date: October 16, 2017

/s/ Mitchell L. Feldman, Esq.
Mitchell L. Feldman
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FELDMAN WILLIAMS LLC
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Attorney for Plaintiff

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
ROBERT GANIER, individually,
and on behalf of all others
similarly situated,
(b) County of Residence of First Listed Plaintiff Polk County
(c) Attorneys (Firm Name, Address, and Telephone Number)
Mitchell L. Feldman, Esq., FELDMAN WILLIAMS PLLC; 18801 N. Dale
Mabry Hwy. #563, Lutz, FL 33548; (813) 639-9366/(813) 639-9376;
mif@feldmanlegal.us

DEFENDANTS
RAMSGATE INSURANCE, INC.;
RAMSGATE PROGRAM MANAGERS, INC.;
1ST QUALITY INSURANCE GROUP
County of Residence of First Listed Defendant Polk County
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
PTF DEF
4 4
5 5
6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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

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(b) of the Fair Labor Standards Act.
Brief description of cause:
Collective Action Complaint for violations of the FLSA and Rule 23 Class Action for recovery of unpaid wages.

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 10/16/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Mitchell L. Feldman, Esq.

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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 six 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Employee Sues 1st Quality Insurance Group Over Alleged Misclassification](#)
