

# Exhibit C

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION**

**THOMAS BELTON, MAURICE GREEN, and  
MONYAL McLARTY** individually and on  
behalf all others similarly situated,

**Plaintiffs,**

**v.**

**ALAMO CLAIM SERVICE, PETER  
PERRINE, THORLIN LEE, DAVID  
SERFASS, and STATE FARM MUTUAL  
AUTOMOBILE INSURANCE COMPANY,**

**Defendants.**

**SECOND AMENDED  
CLASS ACTION COMPLAINT  
and Demand for Jury Trial**

Plaintiffs Thomas Belton, Maurice Green, and Monyal McLarty, individually and on behalf of all others similarly situated as class representatives, by their attorneys, upon personal knowledge as to themselves and upon information and belief as to other matters, allege as follows:

**NATURE OF THE ACTION**

1. Belton, Green, and McLarty were employed by Defendants as claim representatives, classified as independent contractors, and paid a day rate for their work (“Claim Representatives”). Belton, Green, and McLarty and other Claim Representatives processed insurance claims by obtaining facts from the insured, inputting those facts into computers using Defendants’ software.

2. Belton, Green, McLarty, and the other Claim Representatives regularly worked in excess of 40 hours in a week for which Defendants did not pay them overtime wages.

3. This case seeks to compel Defendants to pay Belton, Green, McLarty, and a class

of similarly situated employees all of the wages they earned.

4. By the conduct described in this Class Action Complaint, Defendants have violated the Fair Labor Standards Act (“FLSA”), and the wage and hour laws of Illinois, by failing to pay their employees proper overtime compensation. These violations arose out of Defendants’ company-wide policies and pattern or practice of violating wage and hour laws.

5. Belton, Green, and McLarty bring individual and representative claims to remedy these violations. They bring FLSA claims as a collective action, on their own behalf and on behalf of other similarly situated employees, under 29 U.S.C. §§ 201 *et seq.*, and specifically, the collective action provision, 29 U.S.C. § 216(b).

6. Belton, Green, and McLarty also bring individual and representative wage claims under the Illinois Minimum Wage Law, 820 ILCS 105/1 - 15 (“IMWL”) as a class action pursuant to Fed. R. Civ. P. 23.

### **THE PARTIES**

#### ***Plaintiffs***

7. Plaintiff Belton’s written consent to be a party to this action has been filed with the Court.

8. Belton resides in Bloomington, Illinois.

9. Belton was employed by Defendants as a Claim Representative in Illinois from approximately November 7, 2011 to June 27, 2012.

10. Pursuant to Defendants’ policy and pattern or practice, Belton was scheduled to work 60 hours each week and he regularly worked more than 40 hours per week for Defendants’ benefit without overtime compensation.

11. Plaintiff Green’s written consent to be a party to this action is attached hereto.

12. Green resides in Chicago, Illinois.

13. Green was employed by Defendants as a Claim Representative in Illinois from approximately September 2011 to October 2012.

14. Pursuant to Defendants' policy and pattern or practice, Green was scheduled to work 60 hours each week and he regularly worked more than 40 hours per week for Defendants' benefit without overtime compensation.

15. Plaintiff McLarty's written consent to be a party to this action has been filed with the Court.

16. McLarty resides in Douglasville, Georgia.

17. McLarty was employed by Defendants as a Claim Representative in Illinois from approximately October 18, 2011 to June 15, 2012.

18. Pursuant to Defendants' policy and pattern or practice, McLarty was scheduled to work 60 hours each week and he regularly worked more than 40 hours per week for Defendants' benefit without overtime compensation.

***The Defendants***

19. Defendant Alamo Claim Service ("ACS") is a privately held company that provides customer service in claim handling and claim management for the insurance industry.

20. ACS headquarters are located at 8200 IH 10 West, Suite 215, San Antonio, Texas 78230.

21. ACS provides services to State Farm offices in Illinois, including offices in Bloomington, Arlington Heights, Elmhurst, and Collinsville.

22. ACS maintains control, oversight, and direction over the operation of the facilities and offices in which Plaintiffs worked, including the payroll and other employment practices

therein.

23. Defendant Peter Perrine is an owner and President of Alamo Claim Service. Upon information and belief, as President, Mr. Perrine acted and continues to act directly and indirectly in ACS' interest in relation to its employees, including the Plaintiffs, and is thus an employer of the employees within the meaning of 29 U.S.C. § 203(d).

24. Defendant Thorlin Lee is one of two Vice Presidents of Alamo Claim Service. Upon information and belief, as Vice President, Mr. Lee acted and continues to act directly and indirectly in ACS' interest in relation to its employees, including the Plaintiffs, and is thus an employer of the employees within the meaning of 29 U.S.C. § 203(d).

25. Defendant David Serfass is an owner and the other Vice President of Alamo Claim Service. Upon information and belief, as Vice President, Mr. Serfass acted and continues to act directly and indirectly in ACS' interest in relation to its employees, including the Plaintiffs, and is thus an employer of the employees within the meaning of 29 U.S.C. § 203(d).

26. Defendant State Farm Mutual Automobile Insurance Company ("State Farm") is a family of insurance and financial services companies that together serve tens of millions of customers in the U.S. and Canada.

27. State Farm's headquarters are located at One State Farm Plaza, Bloomington, Illinois 61710.

28. State Farm maintains control, oversight, and direction over the operation of the facilities and offices in which Plaintiffs worked, and is thus an employer of the employees within the meaning of 29 U.S.C. § 203(d).

29. Plaintiff Belton performed work on behalf of Defendants in Bloomington, Illinois.

30. Plaintiff Green performed work on behalf of Defendants in Arlington Heights and

Elmhurst, Illinois.

31. Plaintiff McLarty performed work on behalf of Defendants in Collinsville, Illinois.

### **JURISDICTION AND VENUE**

32. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and jurisdiction over these state law claims pursuant to 28 U.S.C. §§ 1332 and 1367.

33. In addition, the Court has jurisdiction over these claims under the FLSA pursuant to 29 U.S.C. § 216(b).

34. Upon information and belief, Defendants are subject to personal jurisdiction in Illinois.

35. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

36. Venue is proper in the Central District of Illinois pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events or omissions giving rise to the claim occurred in this District and Defendants are subject to personal jurisdiction here.

### **CLASS ACTION ALLEGATIONS**

37. Belton, Green, and McLarty bring the Second Cause of Action under Rule 23 of the Federal Rules of Civil Procedure, on behalf of themselves and a class of persons consisting of:

All persons who were hired by Alamo Claim Service to work in State Farm Offices in Illinois as claim representatives who were classified as independent contractors and paid a day rate for their work between August 21, 2007 and the date of final judgment in this matter (the "Illinois Class").

38. Excluded from the Illinois Class are Defendants' legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class

period has had, a controlling interest in Defendants; the Judge(s) to whom this case is assigned and any member of the Judges' immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the Illinois Class.

39. The persons in the Illinois Class identified above are so numerous that joinder of all members is impracticable. Although the precise number of such persons is not known to Belton, Green, or McLarty, the facts on which the calculation of that number can be based are presently within the sole control of Defendants.

40. Upon information and belief, the size of the Illinois Class is at least 100 workers.

41. Defendants acted or refused to act on grounds generally applicable to the Illinois Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Illinois Class as a whole.

42. The Second Cause of Action is properly maintainable as a class action under Federal Rule of Civil Procedure 23(b)(3). There are questions of law and fact common to the Illinois Class that predominate over any questions solely affecting individual members of the Illinois Class, including but not limited to:

a. whether Defendants misclassified Belton, Green, McLarty, and the Illinois class as independent contractors;

b. whether Defendants paid Belton, Green, McLarty, and the Illinois Class for all the hours they worked;

c. whether Defendants had a duty to pay Belton, Green, McLarty, and the Illinois Class overtime pay for hours worked in excess of 40 hours per workweek;

d. whether Defendants failed and/or refused to pay Belton, Green, McLarty, and the Illinois Class overtime pay for hours worked in excess of 40 hours per workweek;

e. the nature and extent of Illinois Class-wide injury and the appropriate measure of damages for the Illinois Class;

f. whether Defendants' policy of failing to pay overtime was instituted willfully or with reckless disregard of the law;

g. whether Defendants correctly calculated and compensated Belton, Green, McLarty, and the Illinois Class for hours worked in excess of 40 per workweek; and

h. whether Defendants' policy and practice of failing to pay Belton, Green, McLarty, and the Illinois Class all wages due within the time provided by law violates Illinois law.

43. Belton, Green, and McLarty's claims are typical of the claims of the Illinois Class they seek to represent. Belton, Green, McLarty, and the Illinois members work or have worked for Defendants and have been subjected to their policy and pattern or practice of failing to pay overtime wages for hours worked in excess of 40 hours per week and failing to pay wages for all hours worked. Defendants acted and refused to act on grounds generally applicable to the Illinois Class, thereby making declaratory relief with respect to the Illinois Class appropriate.

44. Belton, Green, and McLarty will fairly and adequately represent and protect the interests of the Illinois Class. They understand that, as class representatives, they assume a fiduciary responsibility to the Illinois Class to represent its interests fairly and adequately. Belton, Green, and McLarty recognize that as class representatives, they must represent and consider the interests of the Illinois Class just as they would represent and consider their own interests. They understand that in decisions regarding the conduct of the litigation and its possible settlement, they must not favor their own interests over those of the Illinois Class. They recognize that any resolution of a class action lawsuit, including any settlement or dismissal



thereof, must be in the best interests of the Illinois Class. Belton, Green, and McLarty understand that in order to provide adequate representation, they must remain informed of developments in the litigation, cooperate with class counsel by providing them with information and any relevant documentary material in their possession, and testify, if required, in a deposition and in trial.

45. Belton, Green, and McLarty have retained counsel competent and experienced in complex class action employment litigation.

46. A class action is superior to other available methods for the fair and efficient adjudication of this litigation – particularly in the context of wage litigation like the present action, where individual plaintiffs may lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate defendant. The members of the Illinois Class have been damaged and are entitled to recovery as a result of Defendants’ common and uniform policies, practices, and procedures. Although the relative damages suffered by individual members of the Illinois Class are not *de minimis*, such damages are small compared to the expense and burden of individual prosecution of this litigation. In addition, class treatment is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants’ practices.

#### **COLLECTIVE ACTION ALLEGATIONS**

47. Belton, Green, and McLarty bring FLSA claims, the First Cause of Action, on behalf of themselves and all similarly situated persons:

who were hired by Alamo Claim Service to work in State Farm Offices in Illinois as claim representatives who were classified as independent contractors and paid a day rate for their work during a period of three years prior to the filing of this complaint and the date of final judgment in this matter (the “FLSA Collective”).

48. Defendants are liable under the FLSA for, *inter alia*, failing to properly

compensate Belton, Green, McLarty, and the FLSA Collective. Upon information and belief, there are many similarly situated current and former employees of Defendants who have been underpaid in violation of the FLSA who would benefit from the issuance of a court-supervised notice of the present lawsuit and the opportunity to join the present lawsuit. Those similarly situated employees are known to Defendants, are readily identifiable, and can be located through Defendants' records. Notice should be sent to the FLSA Collective pursuant to 29 U.S.C. § 216(b).

**CLASS-WIDE FACTUAL ALLEGATIONS**

49. Defendants employed the Illinois Class members as Claim Representatives.

50. Defendants required the Illinois Class members to work scheduled hours at a specified work site. During their period of employment, the Illinois Class members were required to work scheduled work days each week. Belton, Green, and McLarty were scheduled to work ten hours a day Monday through Saturday each week.

51. Defendants trained the Illinois Class members in how to perform their work.

52. Defendants closely monitored the Illinois Class members' work.

53. Defendants directed the Illinois Class members' work.

54. Defendants supervised the Illinois Class members' work.

55. Defendants provided the Illinois Class members with the work space and work tools, including computers, software, phones, e-mail accounts, and desks, necessary to perform their work.

56. The work that Illinois Class members performed, claims services, is an integral part of Defendants' business.

57. Defendants paid the Illinois Class members the same sum each day that they

worked at least their scheduled hours.

58. If Illinois Class members did not work their scheduled hours, Defendants reduced the sum paid for that day.

59. Defendants did not pay Illinois Class members additional pay when they worked beyond their scheduled hours.

60. Illinois Class members were paid at the same rate each day regardless of the quantity or quality of their work.

61. Illinois Class members regularly worked more than 40 hours in a week. Belton, Green, and McLarty were scheduled to work ten hours a day Monday through Saturday each week, and they often worked more.

62. Defendants did not pay Belton, Green, McLarty, or other Illinois Class members an overtime premium for the hours they worked over 40 in a week.

63. Upon information and belief, it was Defendants' willful policy and pattern or practice not to pay its employees, including Belton, Green, and McLarty, the Illinois Class members, and the FLSA Collective Members (collectively "Class Members"), an overtime premium for work that exceeded 40 hours in a week.

64. Defendants' unlawful conduct, as set forth in this Class Action Complaint, has been intentional, willful, and in bad faith, and has caused significant damages to Belton, Green, McLarty, and the Class Members.

65. Defendants were aware or should have been aware that the law required it to pay non-exempt employees, including Belton, Green, McLarty, and the Class Members, an overtime premium of time and one-half for all work-hours it suffered or permitted in excess of 40 per workweek. Upon information and belief, Defendants applied the same unlawful policies and

practices to all Class Members.

**FIRST CAUSE OF ACTION**  
**Fair Labor Standards Act: Unpaid Wages**  
**On behalf of Plaintiffs Belton, Green, McLarty, and the FLSA Collective**

66. Belton, Green, and McLarty re-allege and incorporate by reference all allegations in all preceding paragraphs.

67. Defendants engaged in a widespread pattern, policy, and practice of violating the FLSA, as detailed in this Class Action Complaint.

68. At all times relevant, Belton, Green, McLarty, and the FLSA Collective were engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

69. The overtime wage provisions set forth in the FLSA apply to Defendants and protect Belton, Green, McLarty, and the FLSA Collective.

70. Defendants were employers engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

71. At all times relevant, Belton, Green, McLarty, and the FLSA Collective were or have been employees within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

72. Defendants employed Belton, Green, McLarty, and the FLSA Collective as employers.

73. Defendants failed to pay Belton, Green, McLarty, and the FLSA Collective the overtime wages to which they are entitled under the FLSA.

74. Defendants' violations of the FLSA, as described in this Class Action Complaint, have been willful and intentional.

75. Defendant did not make a good faith effort to comply with the FLSA with respect

to its compensation of Belton, Green, McLarty, and the FLSA Collective.

76. Because Defendants' violations of the FLSA were willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. § 255.

77. As a result of Defendants' violations of the FLSA, Belton, Green, McLarty, and the FLSA Collective have suffered damages by being denied overtime wages in accordance with the FLSA in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. §§ 201 *et seq.*

**SECOND CAUSE OF ACTION**

**Illinois Minimum Wage Law**

**On behalf of Plaintiffs Belton, Green, McLarty, and the Illinois Class Members**

78. Belton, Green, and McLarty re-allege and incorporate by reference all allegations in all preceding paragraphs.

79. Defendants have engaged in a widespread pattern, policy, and practice of violating Illinois Minimum Wage Law, 820 ILCS 105/1 - 15 ("IMWL") and its implementing regulations, as detailed in this Class Action Complaint.

80. Illinois Minimum Wage Law requires employers, such as Defendants, to pay overtime compensation to all non-exempt employees for all hours worked over forty per week.

81. Belton, Green, McLarty, and the Illinois Class members are non-exempt employees entitled to be paid overtime compensation for all overtime hours worked.

82. Throughout the Illinois Class Period, and continuing through the present, Belton, Green, McLarty, and the Illinois Class members worked in excess of forty hours in a workweek.

83. During the Illinois Class Period, Defendants misclassified Belton, Green, McLarty, and the Illinois Class members as independent contractors and failed to pay them

overtime premium pay for their overtime hours worked.

84. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Belton, Green, McLarty, and the Illinois Class members have sustained damages, including loss of earnings for hours of overtime worked on behalf of Defendants in an amount to be established at trial, damages, statutory interest, prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.

**PRAYER FOR RELIEF**

**WHEREFORE**, Belton, Green, McLarty, individually and on behalf of all other similarly situated persons, pray for the following relief:

A. That, at the earliest possible time, Belton, Green, and McLarty be allowed to give notice of this collective action and that Defendants provide Belton, Green, and McLarty with names, addresses, telephone numbers, and other contact information, or that the Court issue such notice, to all persons who are presently, or have at any time during the three years immediately preceding the filing of this suit been employed by Defendants and who fall within the FLSA Collective described in this Class Action Complaint. Such notice shall inform them that this civil action has been filed, of the nature of the action, and of their right to join this lawsuit if they believe they were denied proper wages; and

B. Unpaid wages, an additional and equal amount as liquidated damages, interest, attorneys' fees, costs (including expert fees), and other compensation pursuant to 29 U.S.C. §§ 201 *et seq.*

**WHEREFORE**, Belton, Green, McLarty, on behalf of themselves and all members of the Illinois Class they seek to represent, prays for the following relief:

A. Certification of this action as a class action pursuant to FRCP 23;

- B. Designation of Belton, Green, and McLarty as Class Representatives;
- C. A declaratory judgment that the practices complained of herein are unlawful under appropriate state law;
- D. Appropriate equitable and injunctive relief to remedy Defendants' violations of state law, including but not necessarily limited to an order enjoining Defendants from continuing its unlawful practices;
- E. An award of damages, liquidated damages, appropriate statutory penalties, and restitution to be paid by Defendants according to proof;
- F. Pre-Judgment and Post-Judgment interest, as provided by law;
- G. Such other injunctive and equitable relief as the Court may deem just and proper; and
- H. Attorneys' fees and costs of suit, including expert fees and costs.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Belton, Green, and McLarty demand a trial by jury on all questions of fact raised by the Complaint.

Dated: January 15, 2013

Respectfully submitted,

*/s/ Michael J.D. Sweeney*

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