

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE JURY DIVISION**

ROBERT W. MCPHERSON on behalf of	:	
himself and all others similarly situated,	:	
	:	CASE NO.: 3:25CV-464-RGJ
	:	
<i>Plaintiffs,</i>	:	JUDGE: <u>Rebecca Grady Jennings</u>
	:	
v.	:	
	:	JURY DEMANDED
SEEK NOW INC.,	:	
	:	
<i>Defendant.</i>	:	
	:	

COLLECTIVE ACTION COMPLAINT

I. INTRODUCTION

1. Robert W. McPherson (“Named Plaintiff” or “Mr. McPherson”) on behalf of himself and all others similarly situated, brings this action against Defendant Seek Now, Inc. (“Defendant”).

2. Named Plaintiff brings these federal claims against Defendant, who is his employer, in order to recover compensation, liquidated damages, attorneys’ fees and costs, and other equitable relief pursuant to the Fair Labor Standard Act of 1939 (“FLSA”), as amended 29 U.S.C. § 201 *et seq.* Named Plaintiff seeks Court Supervised Notice pursuant to 29 U.S.C. § 216(b) to inform other similarly situated individuals of their rights under the FLSA.

3. Named Plaintiff asserts common law claims for unjust enrichment based on Defendant’s misclassification of himself and those similarly situated as “independent contractors.” As a result of this misclassification, Named Plaintiff and those similarly situated have been denied

the rights and protections afforded to individuals under federal law, including employer-provided workers' compensation coverage, unemployment insurance benefits, and overtime pay.

4. Named Plaintiff brings his FLSA action on behalf of himself and those similarly situated who file their written consent to join this action pursuant to 29 U.S.C. § 216(b).

5. Defendant failed to pay Named Plaintiff and the Putative Plaintiffs one-and one-half times their respective regular rates for all hours worked over forty (40) in a workweek, and as such, Defendant has violated the FLSA.

6. Named Plaintiff further alleges that Defendant has been unjustly enriched at the expense of Named Plaintiff and the Putative Plaintiffs by subjecting them to deductions, charges, and/or expenses that are typically borne by employers and are for the employer's benefit.

II. JURISDICTION AND VENUE

7. This Court has jurisdiction over Named Plaintiff's claims because they are brought pursuant to the FLSA, 29 U.S.C. § 216(b), and because they raise a federal question pursuant to 28 U.S.C. § 1331.

8. This Court has jurisdiction over Named Plaintiff's supplemental unjust enrichment claims pursuant to 28 U.S.C. § 1367.

9. Venue for this action properly lies in the Western District of Kentucky, pursuant to 28 U.S.C. § 1391, as Defendant is headquartered in this jurisdiction¹.

III. PARTIES

A. Plaintiffs

10. Named Plaintiff Robert W. McPherson ("Named Plaintiff" or "Mr. McPherson") is an adult individual residing in Canal Winchester, Ohio at 3984 Bannen Trail Dr. Canal Winchester,

¹ <https://seek-now.com/culture/#open-positions> Where we are.

Ohio 43110. Mr. McPherson has worked for Defendant as a home inspector from approximately May 2020 to the present.

11. The Putative Plaintiffs are all current and former individuals that worked for Seek Now, Inc. within the three (3) years preceding the commencement of this action and the present. (“Putative Plaintiffs”).

B. Defendant

12. Defendant Seek Now, Inc. (“Defendant”) is a foreign corporation and is registered to do business in the state of Kentucky. Process may be served upon its Registered Agent, MCM CPAs & Advisors, LLP at 462 South 4th Street, Suite 2600 Louisville, Kentucky 40202.

13. Defendant centrally controls policies and practices for all of their workers, including Named Plaintiff and the Putative Plaintiffs.

14. Defendant regularly oversees business operations, address employment issues, and specifically implements pay and other employment practices and policies, even for Named Plaintiffs and Putative Plaintiffs it purports are contractors.

15. Defendant hires its workers for the purpose of performing home inspections and damage assessments for insurance carriers, including Named Plaintiffs and Putative Plaintiffs.

16. Furthermore, Defendant acts directly in the interest of itself as an employer in relation to Named Plaintiff and the Putative Plaintiffs.

17. Thus, Defendant is a “person” (within the meaning of the FLSA) “acting directly or indirectly in the interest of an employer in relation to an employee.” *See* 29 U.S.C. §§ 203(a),

18. As a result, Defendant employs the Named Plaintiff and the Putative Plaintiffs within the meaning of the FLSA.

IV. FACTUAL ALLEGATIONS

19. At all times material to this Complaint, Defendant was an employer within the meaning of the FLSA.

20. During all times material to this Complaint, Defendant employed Named Plaintiff and the Putative Plaintiffs within the meaning of the FLSA, though it purported to be in a contractual rather than employment arrangement with them.

21. During all times material to this Complaint, Named Plaintiff and the Putative Plaintiffs were Defendant's employees pursuant to the FLSA though Defendant purported to be in a contractual rather than employment arrangement with them.

22. During all times material to this Complaint, Defendant was an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), in that said enterprise has had employees engaged in commerce or in the production of goods for commerce, or has had employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and in that said enterprise has had and has an annual gross volume of sales made or business done of not less than \$500,000 per year (exclusive of excise taxes at the retail level).

23. During all times material to this Complaint, Named Plaintiff and the Putative Plaintiffs were non-exempt employees as that term is defined by the FLSA.

24. During all times material to this Complaint, Defendant employs Named Plaintiff and the Putative Plaintiffs from their Kentucky headquarters to perform home inspections and damage assessments for insurance carriers across the country, though it purports to do so under a contractual arrangement.

A. Defendant Purposefully Misclassifies Named Plaintiff and the Putative Plaintiffs as “Independent Contractors” to Avoid Providing Employment Benefits.

25. During all times material to this Complaint, and upon information and belief, Named Plaintiff and the Putative Plaintiffs were misclassified by Defendant as independent contractors throughout the duration of their employment.

26. During all times material to this Complaint, and upon information and belief, Defendant micromanaged the manner in which Named Plaintiff and the Putative Plaintiffs performed their work, leaving Named Plaintiff and the Putative Plaintiffs with *de minimis* to no independent discretion or control over their job.

27. During all times material to this Complaint, and upon information and belief, Named Plaintiff and the Putative Plaintiffs had virtually no opportunity for profit or loss depending upon their managerial skill.

28. During all times material to this Complaint, and upon information and belief, Named Plaintiff and the Putative Plaintiffs held permanent positions with Defendant and could not realistically pursue other business opportunities.

29. During all times material to this Complaint, and upon information and belief, the services rendered by Named Plaintiff and the Putative Plaintiffs are an integral part of Defendant’s business (*i.e.*, home inspection services), in fact it is the core service Defendant provides its customers.

30. During all times material to this Complaint, Defendant mandated that Named Plaintiff and Putative Plaintiffs wear uniforms. Named Plaintiff is required to wear a polo shirt with the company logo “Seek Now” along with khaki pants. Named Plaintiff has also observed Putative Plaintiffs wearing “Seek Now” logo shirts.

31. During all times material to this Complaint, Named Plaintiff and the Putative Plaintiffs were provided with the equipment and materials needed to perform the job, such as 360 cameras.

Named Plaintiff has observed Putative Plaintiffs using equipment and materials provided by Defendant, for example, 360 cameras.

32. During all times material to this Complaint, Named Plaintiff and the Putative Plaintiffs are required to take classes online at Seek Now University (“SNU”) (*See Email to McPherson to Complete Required Classes* attached as **Exhibit A**). To complete the required trainings at SNU, Named Plaintiff and the Putative Plaintiffs must log into an application called “Learnies,” which allows them to access their daily or weekly modules assigned by Defendant (*See Reminder to Do Learnies* attached as **Exhibit B**). Named Plaintiff has observed and spoke with Putative Plaintiffs who were also required to complete SNU trainings.

33. During all times material to this Complaint, in addition to their online training modules, Defendant requires Named Plaintiff and the Putative Plaintiff to do in-person trainings to equipment provided by Defendant that is necessary to perform the job. Named Plaintiff has observed and spoken with putative plaintiffs completing in-person trainings to learn how to operate equipment provided by Defendant.

34. For example, in 2022, Named Plaintiff was required to go to Florida with approximately seven hundred (700) other Seek Now employees, including Putative Plaintiffs, to receive training on the 360 cameras. They were taught in classrooms of approximately fifteen (15) to twenty (20) people. At the end of the training, Named Plaintiff and the Putative Plaintiffs brought home the 360 cameras for use while performing jobs for Defendant.

35. During all times material to this Complaint, as an additional requirement of SNU, Named Plaintiff and the Putative Plaintiffs must complete in-person “ride alongs” for one week, during which they shadow another Seek Now workers. Named Plaintiff, for example, completed his

ride along training with a senior Seek Now workers named Thomas Berkle. Named Plaintiff has observed and spoke with Putative Plaintiffs who completed in-person “ride-alongs.”

36. Additionally, during all times material to this Complaint, Defendant maintained company policies governing how inspections were to be conducted, which Named Plaintiff and the Putative Plaintiffs were required to follow.

37. For instance, on March 20, 2025, Defendant posted an announcement for Named Plaintiff and the Putative Plaintiffs, stating that drone flights were suspended from being conducted in the field during inspections “without a clear strategy” or “until a formal drone policy” was published at Seek Now (*See Seek Now Drone Flight Suspension Announcement* attached as **Exhibit C**).

38. Indeed, during all times material to this Complaint, Defendant trains and mandates Named Plaintiff and the Putative Plaintiffs to perform home inspections in accordance with the precise methods and standards established by Defendant.

39. On one occasion, Named Plaintiff performed a home inspection for an insurance carrier that Defendant did not deem “up to Seek Now standards.” As a result, Defendant withheld Named Plaintiff’s pay until Named Plaintiff was able to go back to the job site and re-do the inspection the way Seek Now required it to be done.

40. This is not uncommon for Defendant. On April 6, 2025, Defendant’s previous CEO, Russ Carroll, posted an announcement for Named Plaintiff and the Putative Plaintiffs letting them know if they did not cover an assignment for themselves or their teammates, “it will result in a massive reduction in your income until it reaches zero.” (*See Announcement from Russ Carroll* attached as **Exhibit D**).

41. Further, during all times material to this Complaint, Defendant provides a magnetic sign for Named Plaintiff and the Putative Plaintiffs' cars that says, "Seek Now." Named Plaintiff had the magnetic sign on his car for the first three years of his time working for Defendant. However, after Named Plaintiff got a new truck that was aluminum, the sign would no longer stick. Named Plaintiff has observed and spoke with Putative Plaintiffs who were required to use a magnetic sign on their cars.

42. During all times material to this Complaint, Defendant also provides a wrap for Named Plaintiff and Putative Plaintiffs' vehicles indicating Defendant's branding, and during the Relevant Time Period, Named Plaintiff wrapped his vehicle and saw Putative Plaintiffs with Defendant's wraps on their vehicle.

43. During all times material to this Complaint, Named Plaintiff and the Putative Plaintiffs are not required to find jobs or seek clients. Defendant assigns Named Plaintiff and the Putative Plaintiffs all jobs via the application "Maestro" and using the email addresses Defendant provides Named Plaintiff and the Putative Plaintiffs. Named Plaintiff's email address provided by Defendant is currently _rmcperson@laddernow.com.² Named Plaintiff and other Putative Plaintiffs could not use their own emails to log into Maestro to obtain jobs. Named Plaintiff knows this because he spoke with and observed other Putative Plaintiffs while accessing or attempting to access the Maestro application to retrieve their assigned jobs from Seek Now.

44. During all times material to this Complaint, Defendant used Maestro to send Named Plaintiff and other Putative Plaintiffs a list of jobs assigned to them at the beginning of the week. Named Plaintiff knows this because he spoke with and observed other Putative Plaintiffs while using

² "Ladder Now" was Defendant's business name prior to "Seek Now" and when Named Plaintiff began his work with Defendant.

the Maestro application to retrieve their assigned jobs from Seek Now. For example, Named Plaintiff receives a list of four (4) to five (5) jobs on Maestro each week, and he is required to go through each job assigned to him and hit either “accept” or “decline.” (*See Named Plaintiff’s Schedule attached as Exhibit E*).

45. However, Named Plaintiff and the other Putative Plaintiffs choose to decline a job, they instantaneously receive a message via Microsoft teams from the Seek Now Office telling them that they must accept all their assigned jobs. If the Named Plaintiff and the Putative Plaintiffs insist on declining one of their assigned jobs, Defendant then provides them fewer jobs the following week. Named Plaintiff knows this because he spoke with and observed other Putative Plaintiffs attempting to decline jobs assigned to them by Seek Now on Maestro.

46. During all times material to this Complaint, if Named Plaintiff and the Putative Plaintiffs he seeks to represent said they wanted to swap client assignments with another Seek Now worker or change routes, they were required to obtain permission from Defendant. In order to obtain permission from Defendant, they were required to email, call the office, or ask on the Teams board for approval. Named Plaintiff knows this because he spoke with other Putative Plaintiffs about wanting to swap client assignments or change routes and being denied these requests by Defendant.

47. For example, when Named Plaintiff needs to switch assignments with other Putative Plaintiffs due to a personal matter or illness, he must call his regional manager, Dave Affler, and request his permission to do so.

48. During all times material to this Complaint, Defendant is solely responsible for communicating with insurance carriers for inspections, negotiating service rates, and drafting potential contracts or agreements.

49. During all times material to this Complaint, Defendant is the one responsible for setting the price point at which Defendant's home inspection services are to be performed.

50. During all times material to this Complaint, Defendant directed when, where, and how work was to be completed for Named Plaintiff and the Putative Plaintiffs he seeks to represent.

51. During all times material to the Complaint, Defendant had operational control over significant aspects of Named Plaintiff and the Putative Plaintiffs he seeks to represent. Plaintiff knows this from his personal interactions with other Putative Plaintiffs. For example, Defendant had operational control over significant aspects of the Named Plaintiff and other Putative Plaintiffs day-to-day functions, the authority to hire, fire, and discipline workers, including Named Plaintiff and the Putative Plaintiffs, the authority to set rates and methods of compensation, and the authority to control work schedules and employment conditions.

52. The significant control Defendant exerts over Named Plaintiff and the Putative Plaintiffs clearly indicates the existence of an employer-employee relationship.

53. During all times material to this Complaint, and based on the economic realities of the relationship between Defendant and Named Plaintiff and the Putative Plaintiffs, it is clear that Named Plaintiff and the Putative Plaintiffs have been "employees" for purposes of the FLSA.

54. During all times material to this Complaint, by illegally misclassifying Named Plaintiff and the Putative Plaintiffs as independent contractors and refusing to offer employer-financed workers compensation coverage, unemployment insurance benefits, and overtime benefits, Defendant has unfairly benefited from the work of these employees.

55. Further, during all times material to this Complaint, by illegally misclassifying Named Plaintiff and the Putative Plaintiffs, Defendant has created a scheme that allows them to avoid withholding or paying employment taxes.

56. Upon information and belief, by illegally misclassifying Named Plaintiff and the Putative Plaintiffs as independent contractors, Defendant has avoided paying Named Plaintiff and the Putative Plaintiffs benefits in compliance with the Employee Retirement Income Security Act of 1974 (“ERISA”).

57. It would be inequitable for Defendant to retain the benefit without properly compensating Named Plaintiff and Putative Plaintiffs for its value.

B. Defendant Failed to Pay Named Plaintiff and the Putative Plaintiffs Overtime Wages at One-and One-Half Times their Respective Regular Rates.

58. During all times material to this Complaint, Named Plaintiff and the Putative Plaintiffs regularly worked beyond forty (40) hours in a workweek.

59. However, during all times material to this Complaint, Defendant has a policy and practice of not paying Named Plaintiff and the Putative Plaintiffs at a rate of one-and one-half times their regular rate for all hours worked beyond forty (40) in a workweek.

60. Instead, during all times material to this Complaint, Defendant has a practice of paying Named Plaintiff and the Putative Plaintiffs weekly with a commission check based on the number of jobs they did without regard to the number of hours that Named Plaintiff and the Putative Plaintiffs work.

61. By failing to pay Named Plaintiff and the Putative Plaintiffs at a rate of 150% of their respective regular rates for all hours worked beyond forty (40) in a workweek, Defendant violated the FLSA.

62. Defendant knew or should have known that its pay practices were in violation of the FLSA.

63. Indeed, Defendant willfully carried out its illegal scheme in violation of the FLSA.

V. COURT SUPERVISED NOTICE

64. Named Plaintiff re-alleges, and incorporates by reference, the allegations set forth in the preceding paragraphs.

65. Named Plaintiff requests that the Court issue Court Supervised Notice to the following group of current and former workers defined as:

All current and former individuals who worked for Seek Now, Inc. nationwide at any time since July 23, 2022 as a home inspector and was paid as a contractor as opposed to an employee (“Putative Plaintiffs”).

66. Named Plaintiff reserves the right to amend and refine the definition of the Putative Plaintiffs they seek to have the Court send notice to based upon further investigation and discovery.

67. The precise size and identity of the proposed Putative Plaintiffs should be ascertainable from the business records, tax records, and/or personnel records of Defendant.

68. Court Supervised Notice pursuant to 29 U.S.C. § 216(b) to the Putative Plaintiffs is appropriate because there exists at least a strong likelihood that they are similarly situated to the Named Plaintiff.

69. Sending Court Supervised Notice to the Putative Plaintiffs is appropriate because they have been subjected to the same companywide policies and common business practices referenced in the paragraphs above, and the success of their claims depends upon the resolution of common issues of law and fact, including *inter alia*, whether Defendant misclassified them as independent contractors and failed to pay them 1.5 times their regular rate for all hours worked in excess of forty (40) in a workweek.

70. Named Plaintiff and the Putative Plaintiffs, having willfully not been paid their entitled compensation for work they performed pursuant to the common policies described herein, are “similarly situated” as that term is defined in 29 U.S.C. § 216(b).

71. Named Plaintiff and the Putative Plaintiffs have been similarly affected by the violations of Defendant in workweeks during the relevant time period, which amount to a single decision, policy, or plan to willfully avoid paying all earned wages in compliance with the FLSA.

72. Named Plaintiff seeks to have the Court send supervised notice to the proposed group of similarly situated current and former workers, *i.e.*, Putative Plaintiffs.

73. Named Plaintiff is similarly situated to the Putative Plaintiffs and will prosecute this action vigorously on their behalf.

74. The names, mailing addresses, email addresses, and telephone numbers of the Putative Plaintiffs are available from Defendant's records. For the purpose of notice and other purposes related to this action, their names, addresses, email addresses, and telephone numbers are readily available from Defendant.

75. Named Plaintiff and the Putative Plaintiffs have been damaged by Defendant's willful misclassification and refusal to pay the appropriate wages for all hours worked.

76. As a result of Defendant's FLSA violations, Named Plaintiff and the Putative Plaintiffs are entitled to damages, including, but not limited to, unpaid wages, liquidated damages, costs, and attorneys' fees.

VI. CAUSES OF ACTION

COUNT I **VIOLATION OF THE OVERTIME REQUIREMENTS OF THE FLSA**

77. Named Plaintiff re-alleges, and incorporates by reference, the allegations set forth in the preceding paragraphs.

78. Named Plaintiff asserts this claim on behalf of himself and the Putative Plaintiffs who opt into this action by filing a consent form, pursuant to 29 U.S.C. § 216(b).

79. Named Plaintiff and the Putative Plaintiffs are employees entitled to the FLSA's protections as they were employees within the meaning of 29 U.S.C. § 203(e)(1) and the Defendant was an employer within the meaning of 29 U.S.C. § 203 (d).

80. Here, through the companywide practice of misclassifying Named Plaintiff and Putative Plaintiffs as Independent Contractors and refusing to pay them overtime wages, Defendant has not satisfied its FLSA obligations.

81. The FLSA entitles employees to an overtime rate "not less than one and one-half times" their regular rate of pay for hours worked over 40 hours in a workweek. 29 U.S.C § 207.

82. Defendant has a companywide practice of paying Named Plaintiff and the Putative Plaintiffs a set amount of compensation weekly without regard to the number of hours that Named Plaintiff and the Putative Plaintiffs work.

83. As such, Defendant has violated the FLSA by failing to pay Named Plaintiff and the Putative Plaintiffs for all hours worked over forty (40) in a workweek at one-and one-half times their respective regular rates.

84. Named Plaintiff and the Putative Plaintiffs are entitled to recover all unpaid overtime wages, an equal amount of liquidated damages, and attorneys' fees and expenses, pursuant to 29 U.S.C. § 216(b).

85. In violating the FLSA, Defendant has acted willfully and with reckless disregard of clearly applicable FLSA provisions.

COUNT II
UNJUST ENRICHMENT

86. Named Plaintiff re-alleges, and incorporates by reference, the allegations set forth in the preceding paragraphs.

87. Named Plaintiff asserts this claim on behalf of himself and the Putative Plaintiffs who opt into this action by filing a consent form, pursuant to 29 U.S.C. § 216(b).

88. Defendant has been financially enriched by subjecting Named Plaintiff and the Putative Plaintiffs to deductions, charges, and/or expenses that typically are borne by employers (including many of Defendant's business competitors).

89. The financial enrichment enjoyed by Defendant has come at the expense of Named Plaintiff and the Putative Plaintiffs, who have borne the improper deductions, charges, and/or expenses.

90. It is against equity and good conscience to permit Defendant to retain such improper deductions, charges, and/or expenses.

91. Defendant should be required to reimburse Named Plaintiff and the Putative Plaintiffs for such improper deductions, charges, and/or expenses under the doctrine of unjust enrichment.

PRAYER FOR RELIEF

WHEREFORE, Named Plaintiff prays for the following relief on behalf of himself and all others similarly situated:

A. An Order authorizing prompt notice of this litigation, pursuant to 29 U.S.C. § 216(b), to potentially similarly situated individuals (*i.e.*, the Putative Plaintiffs, as defined above), tolling the running of the FLSA statute of limitations for potentially similarly situated individuals until a ruling on notice, and permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);

B. Designation of the Named Plaintiff as representative of the Putative Plaintiffs who join this lawsuit and counsel of record as their counsel;

- C. An Order requiring Defendant to provide the names, addresses, e-mail addresses, telephone numbers, and social security numbers of all Putative Plaintiffs;
- D. Issuing proper notice to the Putative Plaintiffs at Defendant's expense;
- E. A finding that Defendant has violated the FLSA;
- F. A finding that Defendant's violations of the FLSA is willful and not in good faith;
- G. A judgment against Defendant and in favor of Plaintiffs and all similarly situated individuals who opt into this action by filing a consent form, pursuant to 29 U.S.C. § 216(b), for all unpaid and underpaid wages that Defendant has failed and refused to pay in violation of the FLSA;
- H. Damages for all missed payments taken from or applied to the Plaintiff's and the Putative Plaintiffs' pay.
- I. An order awarding the Plaintiff and the Putative Plaintiffs who join this case back pay equal to their respective overtime wages for all hours worked over forty (40) for three (3) years preceding the filing of this Complaint to the present, plus an additional two times that amount in liquidated damages.
- J. A finding that Defendant was unjustly enriched by retaining improper deductions, charges, and/or expenses from Named Plaintiff and the Putative Plaintiffs;
- K. A finding that Named Plaintiff and the Putative Plaintiffs who join this lawsuit should have been classified as "employees;"
- L. An award of prejudgment and post-judgment interest to the fullest extent permitted under the law;
- M. An award of costs and expenses of this action, together with reasonable attorneys' fees and expert fees; and,

N. Such other relief that this Court deems just and proper in equity and under the law.

VII. JURY DEMAND

Plaintiff demands a jury as to all claims so triable.

Dated: July 25, 2025

Respectfully submitted,

/s/ David W. Garrison

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* *Pro Hac Vice* Motion Forthcoming

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