

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

GONZALO UBILLUS,  
individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

PROGRESSIVE MARATHON  
INSURANCE COMPANY,  
a Michigan corporation,

Defendant.

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ANGELA PERRY and  
MICHAEL PETERSON,  
individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

PROGRESSIVE MICHIGAN INSURANCE  
COMPANY, a Michigan corporation, and  
PROGRESSIVE MARATHON  
INSURANCE COMPANY,  
a Michigan corporation,

Defendants.

Case No. 19-000741-CK  
Hon. Timothy Connors

CLASS ACTION

*-Consolidated with-*

Case No. 2022-000971-CK  
Hon. Timothy Connors

CLASS ACTION

**STIPULATED ORDER  
FOR CONSOLIDATION**

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Marathon Insurance Company in  
Ubillus Action and for Defendants  
Progressive Marathon Insurance Company  
and Progressive Michigan Insurance  
Company in Perry Action*

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**STIPULATED ORDER FOR CONSOLIDATION**

At a session of said Court held in the City of  
Ann Arbor, County of Washtenaw, State of Michigan

on 7/19/24

PRESENT: Timothy P. Connors  
HON. TIMOTHY CONNORS  
CIRCUIT COURT JUDGE

Upon stipulation of the parties hereto, as evidenced by their respective attorneys' signatures,  
and the Court being fully advised in the premises;

**WHEREAS**, following a successful mediation process, the parties in *Gonzalo E. Ubillus v.*

*Progressive Marathon Insurance Company*, Case No. 19-000741-CK, and *Angela Perry and Michael Peterson v. Progressive Michigan Insurance Company and Progressive Marathon Insurance Company*, Case No. 2022-000971-CK, have agreed to a proposed class settlement of both actions. As a result, the parties agree to consolidation of the two actions, which will facilitate a single preliminary and final approval process for that proposed settlement.

**WHEREAS**, pursuant to the Court’s statutory and inherent authority, *Ubillus* and *Perry*, which are both pending before this Court, should be consolidated in order to promote judicial economy, efficiency, and finality in cases that pertain to substantially similar facts, involving common legal issues.

**WHEREAS**, in agreeing to consolidation, Defendants, Progressive Marathon Insurance Company and Progressive Michigan Insurance Company (“Progressive”), reserve all defenses in the actions if the settlement is not approved, including its two pending interlocutory appeals of orders entered in the actions.

**WHEREAS**, on the parties’ joint motions, the Michigan Court of Appeals issued orders to hold both appeals in abeyance pending this Court’s approval of the proposed settlement. In those orders, the Court of Appeals noted this Court retains jurisdiction during those interlocutory appeals to enter a judgment or order on stipulation of the parties pursuant to MCR 7.218(B). *See* Michigan Court of Appeals Orders attached as *Exhibits A and B*.

**WHEREAS**, MCR 2.505(A) governs consolidation, the purpose of which is “to ‘promote the convenient administration of justice.’” *Michigan Waste Sys, Inc v Dept of Nat. Res*, 157 Mich App 746, 756 (1987) (citation omitted). Specifically, “[w]hen actions involving a substantial and controlling common question of law or fact are pending before the court, it may . . . (2) order the actions consolidated; and (3) enter orders concerning the proceedings to avoid unnecessary costs

or delay.” MCR 2.505(A). Consolidation is warranted here for purposes of settlement approval where all factors in favor of consolidation are satisfied.

**WHEREAS**, the same class relief is sought in both actions, and in both actions Progressive Marathon Insurance Company is a common defendant. As the complaints in both actions allege, the standardized policy language at issue is present in every Progressive automobile insurance policy, Form 9611DMI, at issue in the actions. Thus, for plaintiffs in both actions and the certified litigation classes, the relevant contract language is identical. Though, absent class settlement approval in both actions, Progressive will vigorously defend its liability to the plaintiffs and other similarly situated insureds, including via the two appeals pending in the Michigan Court of Appeals, Progressive acknowledges for purposes of this Stipulated Order that the main legal issues are whether Progressive breached its policy by failing to include sales tax, vehicle registration transfers fees, and certificate of title fees.

**WHEREAS**, “[c]onsiderations of judicial economy often favor consolidation.” *Bordeaux v Celotex Corp*, 203 Mich App 158, 163 (1993). The Michigan Court Rules expressly affirm this consideration by allowing courts to “enter orders concerning the proceedings to avoid unnecessary costs or delay.” MCR 2.505(A)(3). Especially for the purpose of having this Court review and approve the proposed class settlement, this second factor is met. The less efficient alternative would be for the parties to *Ubillus* and *Perry* to execute two settlement agreements, and the plaintiffs to separately move for preliminary and final approval settlement approval, with two separate notice programs. That would multiply the cost of class notice and settlement administration.

**WHEREAS**, “[d]ecisions regarding consolidation rest in the sound discretion of the trial court.” *Bordeaux*, 203 Mich App at 163. A circuit court’s inherent power includes the “control

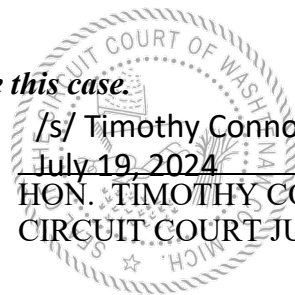
necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *In re Parole of Hill*, 298 Mich App 404, 427 (2012), quoting *Maldonado v Ford Motor Co*, 476 Mich. 372, 376 (2006). “In addition to their inherent powers, circuit courts also have express statutory authority to ‘direct and control the proceedings before them.’” *Id.* at 427-28, quoting *Maldonado*, 476 Mich at 376.

**WHEREAS**, in summary, the actions should be consolidated because (1) both actions involve the same questions of law applied to similar facts, (2) consolidation would promote judicial economy, efficiency, and finality, and (3) the Court has the authority to consolidate the actions.

**IT IS HEREBY ORDERED** that the action *Gonzalo Ubillus v. Progressive Marathon Insurance Company*, Case No. 2019-000741-CK is consolidated with the action *Angela Perry and Michael Peterson v. Progressive Michigan Insurance Company and Progressive Marathon Insurance Company*, Case No. 2022-000971-CK for purposes of approving the proposed class settlement.

**IT IS SO ORDERED.**

*This is not a final order and does not close this case.*

The seal of the Circuit Court of Washington County, Michigan, is circular with a scalloped border. It contains the text "CIRCUIT COURT OF WASHINGTON COUNTY, MICHIGAN" around the perimeter and a central emblem featuring a scale of justice and a book. The date "July 19, 2024" is stamped over the seal.  
/s/ Timothy Connors  
July 19, 2024  
\_\_\_\_\_  
HON. TIMOTHY CONNORS  
CIRCUIT COURT JUDGE

**Approved as to form and content:**

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