

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

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

Plaintiff,

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

CLASS ACTION

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,

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

CLASS ACTION

v.

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

Defendants.

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**SETTLEMENT AGREEMENT AND RELEASE**

Subject to the approval of the Court, this Settlement Agreement and Release (“Settlement” or “Agreement”),<sup>1</sup> is entered into between Plaintiffs Gonzalo E. Ubillus, Angela Perry, and Michael Peterson, on behalf of themselves and the Settlement Class, and Defendants, Progressive Michigan Insurance Company and Progressive Marathon Insurance Company.

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<sup>1</sup> Capitalized terms herein have the meanings defined in Section I below.

## RECITALS

WHEREAS, Plaintiff Ubillus filed *Gonzalo E. Ubillus v. Progressive Marathon Insurance Company*, Case No. 19-000741-CK (Washtenaw Circuit Court), on July 18, 2019, seeking damages and declaratory relief and alleging Progressive Marathon breached his Automobile Insurance Policy by: (i) failing to pay a 6% Sales Tax Payment, a \$15.00 Certificate of Title Fee, an \$8.00 or \$10.00 Vehicle Registration Transfer Fee (pending on the date of loss), and a dealer documentary preparation fee; and (ii) either requiring its insureds to permanently transfer ownership to it of their total loss vehicles without compensating them for the salvage values of those vehicles or deducting the salvage values of the total loss vehicles from their total loss payments;

WHEREAS, Plaintiff Ubillus and Progressive Marathon stipulated to the dismissal without prejudice of all allegations of breach of contract related to the salvage value of total loss vehicles;

WHEREAS, Plaintiff Ubillus and Progressive Marathon moved for summary disposition. Plaintiff Ubillus moved for partial summary disposition on liability and to strike Progressive's affirmative defenses to his individual claims. Progressive moved for summary disposition on Plaintiff's individual claims;

WHEREAS, the Court heard oral argument on summary disposition in *Ubillus* in September 2022 and issued an oral ruling from the bench. The Court entered a written order on the motions on January 6, 2023, granting Plaintiff a partial summary disposition on liability;

WHEREAS, in October 2022, Plaintiff Ubillus moved for class certification. The Court heard oral argument in December 2022 and, on January 6, 2023, certified a class of Progressive Marathon insureds who sustained a Total Loss to their insured vehicle on or after July 18, 2013. The Court appointed as Class Counsel in *Ubillus*: Roger Mandel and Scott Jeeves of Jeeves Mandel

Law Group, P.C.; Craig Rothburd of Craig E. Rothburd, P.A.; Michael Pitt of Pitt, McGhehee, Palmer, Bonanni & Rivers, P.C., and Casim Neff of Neff Insurance Law, PLLC;

WHEREAS, on January 26, 2023, Progressive Marathon applied for leave to appeal the *Ubillus* summary disposition order. On July 5, 2023, the Court of Appeals granted leave to appeal that order and stayed further proceedings in this Court;

WHEREAS, on July 18, 2022, Plaintiffs Perry and Peterson filed *Angela Perry and Michael Peterson v. Progressive Michigan Insurance Company and Progressive Marathon Insurance Company*, Case No. 2022-000971-CK (Washtenaw Circuit Court), alleging Progressive Marathon and Progressive Michigan breached their respective Automobile Insurance Policies by failing to pay a 6% Sales Tax Payment, a \$15.00 Certificate of Title Fee, and \$8.00 or \$10.00 Vehicle Registration Transfer Fee (pending on the date of loss), and seeking damages and declaratory relief;

WHEREAS, in November 2022, Class Counsel in *Perry* moved for class certification. The Court heard oral argument in January 2023 and, on March 7, 2023, certified classes of Progressive Marathon and Progressive Michigan insureds who sustained a Total Loss to their insured vehicle on or after July 18, 2016. The Court appointed as Class Counsel for both *Perry* classes: Jeff Ostrow of Kopelowitz Ostrow Ferguson Weiselberg Gilbert; E. Powell Miller, Sharon Almonrode, and Brian Saxe of The Miller Law Firm, P.C.; Andrew Shamis of Shamis & Gentile, P.A.; and Scott Edelsberg of Edelsberg Law, P.A.;

WHEREAS, with the consent of Class Counsel in *Perry*, the Court stayed further trial court proceedings in *Perry*, except for class notice, until the *Ubillus* interlocutory appeal was completed;

WHEREAS, on March 27, 2023, Progressive applied for leave to appeal the class certification order in *Perry*. On November 16, 2023, the Court of Appeals granted Progressive

leave as to the first issue raised—that is, the issue addressing certification of the Progressive Marathon class in *Perry* that overlapped with the class certified in *Ubillus*;

WHEREAS, following class certification in both *Perry* and *Ubillus*, the Court approved Plaintiffs' notice plans and notices in both cases, and certified class members received notice and an opportunity to opt-out of these certified classes. A.B. Data served as the notice administrator consistent with the Court-approved notice plans, and processed any opt-out requests;

WHEREAS, the Parties in *Ubillus* and *Perry* engaged in extensive arms-length settlement negotiations, including during mediation sessions before Michael Ungar, Esq., on February 15, 2024 and March 19, 2024;

WHEREAS, the Parties have jointly requested the Court of Appeals order a limited remand in *Ubillus* and *Perry* to allow this Court to decide whether to approve the Settlement;

WHEREAS, the Parties agree to jointly move to consolidate *Ubillus* and *Perry* to allow the Court to consider and approve the Settlement, recognizing there will be judicial efficiency and cost savings by doing so.

WHEREAS, Plaintiffs and Class Counsel, while believing that the claims asserted in the Action are meritorious, have considered the risks associated with the continued prosecution of this complex and time-consuming litigation in this Court, the risks associated with the current interlocutory appeals and potential future appeals, the relief secured in this Agreement, as well as the likelihood of success on appeal, and they believe that, in consideration of all the circumstances, the proposed Settlement embodied in this Agreement is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Class; and

WHEREAS, Defendants deny and continue to deny all material allegations in the Actions, maintain they complied with the Automobile Insurance Policies and all applicable laws

and regulations, and contend that the summary disposition and class certification decisions in *Ubillus* and class certification decision in *Perry* were erroneous. Still, without admitting liability or that the Actions are suitable for class treatment other than in the settlement context, and without waiving any argument on liability or decertification, Defendants agree to enter into this Agreement to avoid the significant burden, expense, risk, and inconvenience of protracted litigation and appeals, and the resulting distraction diversion of their personnel and resources.

WHEREAS, until this Settlement is approved by the Court and no longer subject to judicial review, this Agreement and its contents are governed by MRE 408. Until then, this Agreement is not binding on anyone, except as necessary to seek approval of the Settlement;

NOW, THEREFORE, IT IS HEREBY AGREED by and among the Parties, through their respective counsel, that the Action be settled and compromised by the Plaintiffs, the Settlement Class, and Progressive on the following terms and conditions, subject to the approval of the Court after hearing:

## **I. DEFINITIONS**

For purposes of this Agreement, the following terms shall be defined as set forth below:

1. “Actions” means the following cases to be consolidated: *Angela Perry, et al. vs. Progressive Michigan Insurance Co. and Progressive Marathon Insurance Co.*; Case No.:2022-971-CK, and *Gonzalo E. Ubillus vs. Progressive Marathon Insurance Company*; Case No.: 2019-741-CK, pending in the Circuit Court for the County of Washtenaw.

2. “Actual Cash Value” is determined by the fair market value, age, and condition of the Total Loss vehicle at the time the loss occurs, as calculated by Progressive during the Total Loss settlement process and before the application of the deductible and inclusion of any Sales Tax Payment or Fees. As to each Potential Settlement Class Member’s Total Loss vehicle,

Plaintiffs do not contest Progressive's calculation of its Actual Cash Value.

3. "Application for Attorneys' Fees, Costs, and Service Awards" means the application made with the Motion for Final Approval seeking Class Counsel's attorneys' fees and costs, and for Service Awards for the Class Representatives.

4. "Attorneys' Fees and Costs Award" means the Court-determined award of attorneys' fees and cost to be paid to Class Counsel.

5. "Automobile Insurance Policy" means a Michigan personal automobile policy of insurance issued by Progressive Marathon or Progressive Michigan that includes, or during either Class Period included, first-party collision or comprehensive coverage for damage to a vehicle.

6. "Blank Electronic Claim Form" means a claim form to be submitted electronically via the Settlement Website that is not pre-filled with the Potential Settlement Class Member's name, address, date of loss, and Unique ID, substantially in the form attached hereto as *Exhibit 8*.

7. "Blank Paper Claim Form" means a claim form that is not pre-filled with the Potential Settlement Class Member's name, address, date of loss, and Unique ID, substantially in the form attached hereto as *Exhibit 7*.

8. "Certificate of Title Fee" means the \$15.00 fee for applying for a certificate of title in the State of Michigan during the Class Period under MCL §§ 257.217 and 257.806.

9. "Claim" means the submission of a Claim Form by a Claimant.

10. "Claimant" means a Potential Settlement Class Member who submits a Claim Form.

11. "Claim Deadline" means the date by which a Claim Form must be submitted to the Settlement Administrator to be timely. The Claim Deadline shall be 15 days after the original date set for the Final Approval Hearing. To be timely, a Claim Form must be postmarked on or before

the Claim Deadline or electronically submitted by 11:59 p.m. on the Claim Deadline.

12. “Claim Form” means any of the Court-approved paper or electronic forms by which a Claimant may submit a Claim for a Settlement Class Member Payment, all of which shall: (i) require the Potential Settlement Class Member to attest that the member was not previously paid one or more of a Sales Tax Payment, a Certificate of Title Fee, or a Vehicle Registration Transfer Fee; and (ii) indicate that Claims may be audited by Progressive for accuracy.

13. “Class Counsel” means Jeff Ostrow of Kopelowitz Ostrow P.A.; E. Powell Miller, Sharon Almonrode, and Brian Saxe of The Miller Law Firm, P.C.; Andrew Shamis of Shamis & Gentile, P.A.; and Scott Edelsberg of Edelsberg Law, P.A.; Roger Mandel and Scott Jeeves of Jeeves Mandel Law Group, P.C.; Craig Rothburd of Craig E. Rothburd, P.A.; Michael Pitt of Pitt, McGhehee, Palmer, Bonanni & Rivers, P.C., and Casim Neff of Neff Insurance Law, PLLC.

14. “Class List” means Insureds identified using Progressive’s claims data and payment data to be included in the Settlement Class.

15. “Class Period” means (a) as to Progressive Marathon insureds, July 18, 2013, through the date of Preliminary Approval, and (b) as to Progressive Michigan insureds, July 18, 2016, through the date of Preliminary Approval.

16. “Class Representatives” means Gonzalo E. Ubillus and Michael Peterson for Progressive Marathon insureds and Angela Perry for Progressive Michigan insureds.

17. “Complaints” mean the operative complaints filed in the Actions.

18. “Confidential Information” means the names, addresses, policy numbers, and any and all claims data and payment data provided by Progressive relating to Potential Settlement Class Members, and any other proprietary business information of Progressive, including any testimony or documents marked confidential in discovery associated with the Action or otherwise.

19. “Court” means the Circuit Court for the County of Washtenaw.
20. “Covered Total Loss Claim” means a first-party private passenger auto property damage claim determined by Progressive to constitute a Total Loss to an insured automobile that: (a) occurred within the Class Period; (b) was determined by Progressive to be covered by an Automobile Insurance Policy; (c) led to a calculation of the insured automobile’s Actual Cash Value, as shown by Progressive’s claims or payment data; and (d) resulted in a payment by Progressive within the Class Period.
21. “Defendants” means Progressive Marathon Insurance Company and Progressive Michigan Insurance Company, collectively.
22. “Defendants’ Counsel” means Tucker Ellis LLP and Plunkett Cooney, P.C.
23. “Effective Date” means five days after the later of: (a) the expiration of the time to appeal the Final Judgment and all orders merged into that judgment, including the Final Approval Order, with no appeal having been filed; (b) if one or more appeals are filed, the termination of those appeals with a mandate that affirms the Final Approval Order and Final Judgment or will result in no material modification to the Final Approval Order and Final Judgment; or (c) the expiration of the time to obtain any further appellate review of the Final Approval Order and Final Judgment; provided, however, that a modification or reversal of the Attorneys’ Fees and Costs Award will not prevent the Settlement from becoming final if all other aspects of the Final Approval Order and Final Judgment are affirmed. But if the Attorneys’ Fees and Costs Award is issued after the Final Judgment, then the Effective Date is the later of: (a) the expiration of the time to appeal the Attorneys’ Fees and Costs Award; (b) if an appeal is filed, the termination of the appeal; or (c) the expiration of the time to obtain any further appellate review of the Attorneys’ Fees and Costs Award.



24. “Email Notice” means the “First Email Notice” and “Second Email Notice” that will be sent to Potential Settlement Class Members for whom Defendants maintain an email address, substantially in the forms attached hereto as *Exhibit 4* and *Exhibit 5*, respectively.

25. “Email Notice Date” and “Second Email Notice Date” mean the two dates on which the Email Notice is emailed to Potential Settlement Class Members.

26. “Fees” means the following: (a) Vehicle Registration Transfer Fee and (b) Certificate of Title Fee.

27. “Final Approval” means the issuance of the Final Approval Order by the Court, substantially in a form agreed to by the Parties and attached to the Motion for Final Approval, granting final approval of this Agreement and its release of the Released Claims as binding on the Parties and all Settlement Class Members.

28. “Final Approval Hearing” means the hearing before the Court on whether to order Final Approval.

29. “Final Approval Order” means an order by the Court, substantially in a form agreed to by the Parties and attached to the Motion for Final Approval, granting Final Approval. An order determining the Attorneys’ Fees and Costs Award and Service Awards may be issued as part of the Final Approval Order or in a separate order.

30. “Final Judgment” means the order of the Court that dismisses the Actions with prejudice, and which may be issued as part of the Final Approval Order or in a separate order.

31. “Insured” means any Person who was insured under a Progressive Michigan or Progressive Marathon Automobile Insurance Policy.

32. “Long Form Notice” means the detailed Notice, substantially in the form attached hereto as *Exhibit 6*, that shall be posted on the Settlement Website and shall be available to

Potential Settlement Class Members by mail on request made to the Settlement Administrator.

33. “Motion for Final Approval” means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement.

34. “Motion for Preliminary Approval” means the motion that Plaintiffs shall file with the court seeking Preliminary Approval of the Settlement.

35. “Neutral Evaluator” means a neutral third party agreed to by the Parties as provided hereinbelow, whose duties are limited to those set forth therein.

36. “Notice” means the Email Notice, Postcard Notice, and Long Form Notice that Plaintiffs and Class Counsel will ask the Court to approve in connection with the Motion for Preliminary Approval.

37. “Notice Program” means the methods provided for in this Agreement for giving Notice, consisting of the Email Notice, Postcard Notice, and Long Form Notice, as well as the Settlement Website and toll-free IVR telephone system maintained by the Settlement Administrator.

38. “Objection Deadline” means 30 days before the original date set for the Final Approval Hearing.

39. “Opt-Out Deadline” means 30 days before the original date set for the Final Approval Hearing.

40. “Opt-Out List” means the list of Potential Settlement Class Members who timely opt-out of the Settlement Class.

41. “Party” means each of the Plaintiffs and Defendant, and “Parties” means Plaintiffs and Defendants collectively.

42. “Perry” means the case styled: *Angela Perry, et al. vs. Progressive Michigan*

*Insurance Co. and Progressive Marathon Insurance Co.*; Case No.:2022-971-CK.

43. “Person” means any natural person, individual, corporation, association, partnership, trust, or any other type of legal entity.

44. “Plaintiffs” means Gonzalo E. Ubillus, Angela Perry, and Michael Peterson.

45. “Postcard Notice” means the “First Postcard Notice” and “Second Postcard Notice” the Settlement Administrator shall disseminate, substantially in the forms attached hereto as ***Exhibit 2*** and ***Exhibit 3***, respectively.

46. “Postcard Notice Date” and “Second Postcard Notice Date” mean the two dates on which Postcard Notice is mailed to Potential Settlement Class Members.

47. “Potential Settlement Class Member” means any Person on the Class List or any Person not on the Class List who submits a Claim Form.

48. “Pre-Filled Electronic Claim Form” means an electronic claim form that is pre-filled with the Potential Settlement Class Member’s name, date of loss, and Unique ID, substantially in the form of ***Exhibit 9***.

49. “Pre-Filled Paper Claim Form” means a printed version of the Pre-Filled Electronic Claim Form that includes the Potential Settlement Class Member’s name, date of loss, and Unique ID and is substantially in the form of ***Exhibit 9***.

50. “Preliminary Approval” means the issuance of the Preliminary Approval Order, substantially in the form of ***Exhibit 1*** and consistent with Section II below.

51. “Preliminary Approval Order” means the order preliminarily approving the Settlement, preliminarily certifying the Settlement Class, appointing the Class Representatives and Class Counsel, and approving the Notice Program, Notice, Claim Form, and Claims process, substantially in the form attached hereto as ***Exhibit 1***.

52. “Progressive” means Progressive Marathon Insurance Company and Progressive Michigan Insurance Company.

53. “Progressive Marathon” means Progressive Marathon Insurance Company.

54. “Progressive Michigan” means Progressive Michigan Insurance Company.

55. “Released Claims” means and includes any and all known and unknown claims, rights, actions, suits or causes of action of whatever kind or nature, whether statutory, common law, or equitable, including but not limited to breach of contract, bad faith or extra-contractual claims, and claims for punitive or exemplary damages, or prejudgment or post-judgment interest, arising out of or relating to the settlement of any Covered Total Loss Claim under an Automobile Insurance Policy. Released Claims do not include any claim for enforcement of the Settlement, Final Approval Order, or Final Judgment.

56. “Releasing Persons” means Plaintiffs, Settlement Class Members (whether or not they submitted Valid Claims), and their respective present, former, or subsequent assigns, heirs, successors, attorneys, predecessors, parents, subsidiaries, officers, directors, shareholders, members, managers, partners, principals, representatives, agents, employees and anyone working on their behalf.

57. “Released Persons” means (a) Defendants; (b) all divisions, parent entities, affiliates, and subsidiaries of Defendants, whether direct or indirect; (c) all Defendants’ past and present officers, directors, agents, attorneys (including without limitation Defendants’ Counsel), employees, stockholders, successors, assigns, independent contractors, insurers and reinsurers; and (c) all of the heirs, estates, successors, assigns, and legal representatives of any of the entities or Persons listed in this Paragraph.

58. “Sales Tax Payment” is calculated pursuant to MCL § 205.52(1) by applying a 6%

tax rate to the Actual Cash Value assigned by Progressive to the Potential Settlement Class Member's Total Loss vehicle.

59. "Service Award" means the payment that the Court may award each of the Plaintiffs for serving as Class Representatives, which is in addition to any Settlement Class Member Payment they are entitled to as Settlement Class Members.

60. "Settlement Administration Costs" means the costs of implementing the Notice Program and for Settlement administration, including, but not limited to, administrative costs, Notice costs, Claims handling costs, postage, Settlement Website maintenance, costs to email, and all other costs necessary to comport with the Settlement Administrator's obligations under this Agreement.

61. "Settlement Administrator" means A.B. Data Group, or another third-party administrator agreed to by the Parties and approved by the Court. Class Counsel and Progressive may by agreement substitute a different organization as Settlement Administrator, subject to approval by the Court. Absent agreement, either Class Counsel or Progressive may move the Court to substitute a different entity as Settlement Administrator, upon a showing of good cause.

62. "Settlement Class" means all Insureds covered under any Automobile Insurance Policy who made a first-party claim and received from Progressive a Total Loss Claim Payment within the Class Period. Excluded from the Settlement Class are: (a) Progressive's present or former officers, directors, employees, and legal representatives; (b) the Neutral Evaluator, Class Counsel, the Washtenaw Circuit Court Judge presiding over this Action, mediator Michael Ungar, Esq., and any member of their respective immediate families; (c) Insureds with Covered Total Loss Claims for which Progressive received a valid and executed release; (d) Insureds who timely opted-out of any litigation class previously certified in the Actions; and (e) Potential Settlement

Class Members who timely opt-out of the Settlement Class.

63. “Settlement Class Member” means any member of the Settlement Class who has not opted-out of the Settlement.

64. “Settlement Class Member Payment” means the payment Defendants will make to Settlement Class Members who submit Valid Claims.

65. “Settlement Website” means the website the Settlement Administrator will establish as a means for administering this Agreement and to allow Settlement Class Members to submit Claim Forms and obtain notice of and information about the Settlement.

66. “Total Loss” means an insured vehicle that sustained damage which Progressive determined: (a) would cost 75% or more of the vehicle’s Actual Cash Value to repair; or (b) was stolen and either not recovered or recovered with one or more major component parts missing destroyed, or damaged and not salvageable.

67. “Total Loss Claim Payment” means the payment made by Progressive on a Covered Total Loss Claim.

68. “*Ubillus*” means the case styled: *Gonzalo E. Ubillus vs. Progressive Marathon Insurance Company*; Case No.: 2019-741-CK.

69. “Unique ID” means the unique identifier that the Settlement Administrator will create for each Potential Settlement Class Member for use in the Notice Program. If a Potential Settlement Class Member has more than one Covered Total Loss Claim, the Unique ID shall cover all of them.

70. “Valid Claim” means a Claim submitted by a Settlement Class Member that is: (a) submitted in accordance with the provisions of the Settlement; (b) accurately, fully, and truthfully completed and executed, with all of the information requested in the Claim Form; (c) signed

physically or by e-signature by a Settlement Class Member personally; (d) returned or submitted by the Claim Deadline; and (e) determined to be valid by the Settlement Administrator. Additional requirements for Valid Claims for Sales Tax Payments and Fees are specified in Section VI below.

71. “Vehicle Registration Transfer Fee” means the \$8.00 fee *before* September 29, 2020, or the \$10.00 fee *on or after* September 29, 2020, for applying to transfer the registration of a vehicle in the State of Michigan under MCL § 257.809.

72. The plural of any defined term includes the singular, and vice versa.

## II. PRELIMINARY APPROVAL

73. As soon as practicable after execution of this Agreement, Plaintiffs will move for a Preliminary Approval Order, substantially in the form of *Exhibit 1*, that:

- a. preliminarily approves the Settlement as fair, reasonable, and adequate;
- b. finds jurisdiction over the Actions and all Parties, including Plaintiffs and all Potential Settlement Class Members;
- c. preliminarily certifies the Settlement Class for settlement purposes only, and appoints the Class Representatives and Class Counsel;
- d. approves the Notice Program;
- e. approves the Claim Forms;
- f. appoints the Settlement Administrator;
- g. schedules the Final Approval Hearing on a date not sooner than 120 days after entry of the Preliminary Approval Order;
- h. requires the Settlement Administrator to provide the Parties proof of completion of Notice at least 10 days before the Final Approval Hearing, along with the Opt-Out List, and an affidavit or declaration attesting to the accuracy of the Opt-Out List;

i. preliminarily enjoins Potential Settlement Class Members from commencing or prosecuting any action asserting any the Released Claims;

j. requires each Potential Settlement Class Member who wishes to opt-out of the Settlement Class, object to any term of the Settlement, or intervene in the Action, to follow the procedures set forth below, including those requirements applicable to any attorney representing the Potential Settlement Class Member;

k. stays all proceedings in the Action until further order of the Court, except that the Parties may conduct proceedings necessary to implement the Settlement or effectuate the terms of this Agreement; and

l. includes any other provisions not mentioned here that: (a) are necessary to comply with governing law, including binding precedent; and (b) do not materially alter the substantive terms of this Agreement.

74. If the proposed Settlement is not consummated for any reason (including but not limited to reversal on appeal), (a) the Parties and their attorneys shall proceed as though the Agreement had never been entered and the Parties and their counsel shall neither cite nor reference this Agreement (or negotiations relating to this Agreement); (b) nothing in this Agreement and/or the fact that it was entered into and/or negotiations relating to this Agreement shall be offered, received or construed as an admission or as evidence for any purpose in any proceeding, including certification or decertification of a class; (c) the Parties agree to jointly file a motion(s) with the Court to vacate all orders entered pursuant to this Agreement, including any order certifying the Settlement Class; and (d) the Parties will jointly take all steps necessary in this Court and in the Michigan Court of Appeals to reinstate the pending interlocutory appeals (Mich. COA No. 364692; Mich. COA No. 365461).



### **III. DATA PRODUCTION RELATING TO GIVING OF NOTICE AND CALCULATION OF INDIVIDUAL SETTLEMENT CLASS MEMBER CLAIM AMOUNTS**

75. Not later than 14 days after entry of the Preliminary Approval Order, Progressive shall update the data production for the Settlement Class through the date of the Preliminary Approval Order and create the Class List. This production shall include for each Potential Settlement Class Member the same fields of claims data and payment data produced in *Ubillus* and *Perry* for the litigation classes, as well as a list with the names, mailing or street addresses, and email addresses (if available) of all Potential Settlement Class Members. The Parties acknowledge Progressive's representations about the limitations inherent in the claims data and payment data and understand that certain fields of claims data and payment may be missing or incomplete as to some Potential Settlement Class Members.

### **IV. NOTICE PROGRAM**

76. All costs for the Notice Program are part of the Settlement Administration Costs.

77. No Notice described herein will be provided to Insureds who opted-out of any litigation class previously certified in *Perry* or *Ubillus*.

78. Any Notice sent under the Notice Program shall indicate that Claims may be reviewed by Progressive for accuracy.

79. No more than 45 days after entry of the Preliminary Approval Order, the Settlement Administrator shall mail the First Postcard Notice with an attached Pre-Filled Paper Claim Form. The Pre-Filled Paper Claim Form will include prepaid postage sufficient to mail it back to the Settlement Administrator.

80. Before the First Postcard Notice, the Settlement Administrator shall run all physical mailing addresses through the National Change of Address Database ("NCOA").

81. After the First Postcard Notice, the Settlement Administrator shall mail the Second Postcard Notice on a date suggested by the Settlement Administrator that is not less than 60 days before the original date set for the Final Approval Hearing. This notice will be mailed to all Settlement Class members who, according to the Settlement Administrator's records, have not made a Claim or asked to opt-out.

82. No more than 30 days after entry of the Preliminary Approval Order, and as to Settlement Class Members for whom an email address is available, the Settlement Administrator shall also send the First Email Notice.

83. The Settlement Administrator shall also send a Second Email Notice on a date suggested by the Settlement Administrator that is not less than 60 days before the original date set for the Final Approval Hearing. The Second Email Notice shall be sent to all Settlement Class members who, according to the Settlement Administrator's records, have not made a Claim or asked to opt-out.

84. All Email Notices must include the capability to click-through to the Settlement Website to make a Claim.

85. If any Notice and/or Claim Form mailed to any Potential Settlement Class Member is returned as undeliverable, the Settlement Administrator will promptly log each Notice and/or Claim Form so returned and provide copies of the log to Progressive and Class Counsel upon request. If the mailing is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator shall mail the Notice to that forwarding address. For the remaining returned mailings, the Settlement Administrator will use reasonable efforts, to obtain a new address and those mailings shall be re-mailed to any new address obtained. If any Notice is returned as undeliverable a second time, no further mailing is required. It is agreed by the Parties that the

procedures set forth in this Section are reasonable and the best practicable notice under the circumstances, and an appropriate and sufficient effort to locate current addresses for Potential Settlement Class Members such that no additional efforts to do so shall be required.

86. The Settlement Administrator shall create the Settlement Website, which shall contain: the Settlement Agreement; the Long Form Notice; a downloadable Blank Paper Claim Form; an online Blank Electronic Claim Form; Motion for Preliminary Approval; Preliminary Approval Order; and frequently asked questions. The Settlement Administrator shall add to the Settlement Website all other material settlement-related filings, including the Motion for Final Approval and the Application for Attorneys' Fees, Costs, and Service Awards. The Settlement Website shall also contain Spanish translations of the Long Form Notice and Blank Paper Claim Form.

87. The Settlement Website shall have: (a) a "Make A Claim" button permitting a Potential Settlement Class Member to access, electronically sign, and submit a Pre-Filled Electronic Claim Form; (b) a method to access, fill out, electronically sign and submit a Blank Electronic Claim Form with an electronic signature because a Potential Settlement Class Member does not have an Unique ID; and (c) a method to request that a Blank Paper Claim Form be mailed or emailed to the Potential Settlement Class Member.

88. The Notice and Claim Forms will also be made available to all Potential Settlement Class Members by request to the Settlement Administrator, who shall send via first-class U.S. mail or email any of these documents as requested by any Potential Settlement Class Member. If a Unique ID is not available for the Potential Settlement Class Member, the Settlement Administrator shall provide a Blank Paper Claim Form or Blank Electronic Claim Form to the requester.

89. The Settlement Administrator shall retain and record the date and manner in which Notices was sent to each Potential Settlement Class Member and provide periodic updates to the Parties. Promptly after 11:59 p.m. Eastern Time on the Claim Deadline, the Settlement Administrator shall deactivate the Pre-Filled Electronic Claim Form and Blank Electronic Claim Form.

90. The Settlement Administrator shall maintain a toll-free IVR telephone system containing recorded answers agreed to by the Parties for frequently asked questions. The IVR system will allow Potential Settlement Class Members to leave messages and ask for return phone calls. If a Potential Settlement Class Member has a question not addressed in the frequently asked questions, the Settlement Administrator will contact Class Counsel to assist with answering the question, and Class Counsel will confer with Defendants' Counsel, if reasonably necessary to respond.

91. The Settlement Administrator shall establish a post office box for receiving opt-out requests, objections, and any other settlement-related communications and promptly provide copies of same to Class Counsel and Defendants' Counsel. Only the Settlement Administrator, the Court, the Clerk of the Court, and their designated agents shall have access to this post office box, except as otherwise expressly provided in this Agreement.

## **V. SETTLEMENT ADMINISTRATOR**

92. Progressive shall be solely responsible for the payment of all Settlement Administration Costs.

93. The Settlement Administrator shall perform the various administrative tasks set forth herein and any others necessary to implement the terms of this Agreement and the Settlement as preliminarily approved, including: (i) the Notice Program described above and submitting to

the Parties and Court an affidavit or declaration offering proof of the completion of all required Notice to the Settlement Class; (ii) handling mail returned as not delivered and making additional mailings required under the terms of the Agreement; (iii) responding, as necessary, to inquiries from Potential Settlement Class Members; (iv) providing to the Parties, within five days of receipt, copies of all objections, motions to intervene, requests to opt-out, and other settlement communications received from the Settlement Class; (v) preparing a list of all Potential Settlement Class Members who timely requested to opt-out of the Settlement Class and submitting to the Court the Opt-Out List and supporting affidavit or declaration ten days before the original date set for the Final Approval Hearing; (vi) preparing a list of all individuals who submitted objections to the Settlement and submitting an affidavit or declaration testifying to the accuracy of that list; (vii) preparing a list of all (a) Settlement Class Members who make a timely and Valid Claim and (b) Settlement Class Members who make an invalid Claim, with the reason stated for the invalidity of that claim; (viii) implementing procedures for processing and handling Claims; and (ix) promptly responding to requests for information and documents from Class Counsel, Progressive, and/or Defendant's Counsel.

## **VI. SETTLEMENT CLASS MEMBER PAYMENTS**

94. Progressive will make available up to \$61,000,000.00 for the benefit of Settlement Class Members. The amount made available to Potential Settlement Class Members represents 65% of the Sales Tax Payments, Certificate of Title Fees, and and/or Vehicle Registration Transfer Fees sought by Potential Settlement Class Members.

95. A Settlement Class Member is only eligible for payment if that particular Settlement Class Member submits a Valid Claim as to either a Sales Tax Payment or Fees.

96. As to a Sales Tax Payment, a Claim is not valid, and Progressive does not owe a

Settlement Class Member a Sales Tax Payment, where any of the following apply: (i) there is a positive amount listed in the Total SettlementTaxAmt field of the claims data; (ii) there is a payment described in the Descriptor\_Name field of the payment data as “Sales Tax Reimbursement” or described in the DISB\_IN\_PMT\_TXT field of the payment data as “str” or “tax”; (iii) the Settlement Class Member fails to attest in the Claim Form that the member has not been paid a Sales Tax Payment; or (iv) an audit otherwise shows that a Settlement Class Member received a Total Loss Claim Payment that included a Sales Tax Payment.

97. As to Fees, a Claim is not valid, and Progressive does not owe a Settlement Class Member a Settlement Class Member Payment that includes Fees, where either (i) a positive amount is listed in the TotalSettlementFeeAmt field of the claims data; or (ii) the Settlement Class Member fails to attest in the Claim Form that the member has not been paid Fees.

98. Assuming the Court approves payment of over \$12,500,000.00 but no more than \$15,000,000.00 for attorneys’ fees, Progressive will pay 45% of the Sales Tax Payments and Fees to Settlement Class Members, to wit: (a) 45% of the Sales Tax Payment; (b) \$6.75 towards each Settlement Class Member’s Certificate of Title Fee; and (c) \$3.60 towards each Settlement Class Member’s Vehicle Registration Transfer Fee for total losses occurring before September 29, 2020, or \$4.50 towards that fee for total losses occurring on or after September 29, 2020.

99. If the Attorneys’ Fees and Costs Award is over \$10,000,000.00 but no more than \$12,500,000.00, Progressive will pay 55% of the Sales Tax Payments and Fees to Settlement Class Members, to wit: (a) 55% of the Sales Tax Payment; (b) \$8.25 towards each Settlement Class Member’s Certificate of Title Fee; and (c) \$4.40 towards each Settlement Class Member’s Vehicle Registration Fee for total losses occurring before September 29, 2020, or \$5.50 towards that fee for total losses occurring on or after September 29, 2020.

100. But if the Attorneys' Fees and Costs Award is \$10,000,000.00 or less, Progressive will pay 65% of the Sales Tax Payments and Fees to Settlement Class Members, to wit: (a) 65% of the Sales Tax Payment; (b) \$9.75 towards each Settlement Class Member's Certificate of Title Fee; and (c) \$5.20 towards each Settlement Class Member's Vehicle Registration Transfer Fee for total losses occurring before September 29, 2020, or \$6.50 towards that fee for total losses occurring on or after September 29, 2020.

101. The Settlement Class Member Payments described herein are the only payments to which Settlement Class Members, other than Class Representatives who will request a Service Award, are entitled to receive under this Agreement. The payments are deemed to be inclusive of any claims for any potentially applicable penalties, interest, and/or fees. The payments shall be in full and final disposition of the Actions, and in consideration for the release of any and all Released Claims as against any and all Released Persons.

102. Progressive shall not be obligated to make any Settlement Class Member Payments until after the Effective Date.

## **VII. CLAIM SUBMISSIONS**

103. The Settlement Administrator shall establish procedures for receiving and processing each Claim Form.

104. Each Potential Settlement Class Member will be provided an opportunity to submit no later than the Claim Deadline either a Pre-Filled Paper Claim Form, Blank Paper Claim Form, Pre-Filled Electronic Claim Form, or Blank Electronic Claim Form, requesting a Settlement Class Member Payment.

105. A Claim Form submitted for a Potential Settlement Class Member who has more than one Covered Total Loss Claim shall constitute a Claim Form for all of that Potential

Settlement Class Member's covered claims.

106. A Potential Settlement Class Member must include in a Blank Paper Claim Form or Blank Electronic Claim Form (i) the name and current address of the Settlement Class Member and (ii) the claim number or policy number associated with the Covered Total Loss Claim.

107. The Pre-Filled Paper Claim Form or Blank Paper Claim Form must include a signature or, in the case of a Pre-Filled Electronic Claim Form or Blank Electronic Claim Form, an electronic signature, of the Potential Settlement Class Member attesting to the accuracy of the information on the Claim Form, including that the Settlement Class Member was not previously paid one or more of the following: a Sales Tax Payment, a Certificate of Title Fee, or a Vehicle Registration Transfer Fee.

#### **VIII. CLAIMS ADMINISTRATION**

108. Each Claim Form received or submitted by the Claim Deadline shall be processed in the manner described below.

109. If a Claim Form is unsigned, illegible, or does not include sufficient information to verify the Covered Total Loss Claim(s) that are the subject of the Claim, the Settlement Administrator shall contact the Claimant by mail and give the Claimant 30 days to cure any defect(s). If the Claimant does not cure the defect(s) within this 30-day period, the Claim Form is invalid but the Claimant shall remain a Settlement Class Member.

110. Not more than 30 days after the Effective Date, Progressive shall complete its review, if any, and inform Class Counsel and the Settlement Administrator of any Claims it believes are invalid, and, as to each such Claim, include the Settlement Class Member's name, Unique ID, and a brief description as to why Progressive believes the Claim to be invalid.

111. For those Claims that Progressive does not challenge as invalid, Progressive shall



provide the Settlement Administrator and Class Counsel the amount of the Settlement Class Member Payment for each Claim. Class Counsel will have 10 days from the provision of the payment amounts to dispute the amounts of any Settlement Class Member Payment. Progressive and Class Counsel shall cooperate to resolve any dispute as to any Settlement Class Member Payment within the next 10 days.

112. As to Valid Claims for which Class Counsel did not dispute the amount of the Settlement Class Member Payments, Progressive shall make Settlement Class Member Payments to those Settlement Class Members within 45 days after the Effective Date. As to Valid Claims with a disputed Settlement Class Member Payment amount, within 90 days after the Effective Date, Progressive shall pay the agreed amount for each Settlement Class Member Payment. Progressive can make these payments either by: (i) mailing a check to each Settlement Class Member for the full amount of the Settlement Class Member Payment; or (ii) in the alternative, and at least 30 days prior to the applicable payment deadline in this paragraph, making an electronic transfer of funds for the full amount of the Settlement Class Member Payment to the Settlement Administrator. As to (ii), within 30 days after the Settlement Administrator receives the Settlement Class Member Payment from Progressive, the Settlement Administrator will mail a check for the full amount of the Settlement Class Member Payment. All checks shall be valid for 180 days after the date of the check.

113. As to Claims that Progressive challenges as invalid, within 30 days of receiving Progressive's invalidity determinations the Settlement Administrator shall mail letters to the Settlement Class Members who submitted those Claims explaining why Progressive deemed the Claim invalid. If Progressive considers the defect curable, the explanation will include the process by which the defect may be cured and allow the Settlement Class Member to re-submit a new

postage pre-paid, Pre-Filled Paper Claim Form to correct the deficiency that must be postmarked no later than 30 days after the Settlement Administrator's letter. If Progressive considers the defect in the original Claim Form non-curable, or considers the new Pre-Filled Paper Claim Form not to correct the deficiency, the letter will inform the Settlement Class Member of the right to contest the determination by mailing a written explanation to the Settlement Administrator as to why Progressive's determination was incorrect.

114. Settlement Class Members who contest Progressive's invalidity determination must postmark their explanation no later than 30 days after the Settlement Administrator's letter.

115. Within 30 days of receiving any re-submissions or contestations from Settlement Class Members to Progressive's invalidity determination, the Claim will be submitted to the Neutral Evaluator. The decision by the Neutral Evaluator shall be final and binding on Progressive and any Settlement Class Member. The Neutral Evaluator shall provide an explanation of any decision to Progressive and Class Counsel.

116. Within 10 days of the Neutral Evaluator's determination, Progressive will mail a Settlement Class Member Payment to any Settlement Class Members determined by the Neutral Evaluator to have submitted or re-submitted a Valid Claim, and the Settlement Administrator shall mail an explanation to any Settlement Class Member the Neutral Evaluator determined submitted an invalid Claim.

117. The Neutral Evaluator shall be a licensed attorney in the State of Michigan. All costs for the use of the Neutral Evaluator shall be paid exclusively by Progressive.

118. The Settlement Administrator shall establish a reasonable process to identify and remove duplicate Claim Forms and to exclude Claims submitted by Settlement Class Members who timely opt-out of the Settlement.

119. If any Settlement Class Member Payment mailed to any Potential Settlement Class Member is returned to Progressive as undeliverable, Progressive will promptly log each payment so returned and provide copies of the log to the Settlement Administrator. The Settlement Administrator will run the address through the NCOA and provide Progressive with any updated address. If there is an updated address, Progressive shall resend the Settlement Class Member Payment to that address one time. If the Settlement Class Member Payment mailing is returned to Progressive with a forwarding address, Progressive shall forward the Settlement Class Member Payment mailing to that address one time.

120. Progressive shall have no obligation to reissue checks, or otherwise pay, Settlement Class Members with Valid Claims who fails to cash their Settlement Class Member Payments within 180 days or whose Settlement Class Member Payment is returned undeliverable after it is mailed to an updated or forwarding address. Any Settlement Class Member Payments that are uncashed or unclaimed will revert to Progressive.

#### **IX. ATTORNEYS' FEES AND COSTS AWARD AND SERVICE AWARDS**

121. Class Counsel's entitlement, if any, to an Attorneys' Fee and Cost Award and the Class Representatives' entitlement, if any, to Service Awards for serving as the Class Representatives, will be determined by the Court. The terms of any such awards were not negotiated until after all material elements of the Settlement were resolved and the terms of this Settlement are not conditioned upon any maximum or minimum Attorneys' Fee and Cost Award or Service Award, except as explicitly stated herein.

122. Class Counsel shall file the Application for Attorneys' Fees, Costs, and Service Awards requesting an award of attorneys' fees payable to Class Counsel in a total amount that shall not exceed \$15,000,000.00, costs not to exceed \$460,000.00, and Service Awards to the Class

Representatives not to exceed \$10,000.00 each. With Court approval, Progressive shall pay Class Counsel \$10,000,000.00 in attorneys' fees and \$460,000.00 in costs, along with \$30,000.00 in Service Awards, all separate and apart from its obligation to pay Settlement Class Member Payments and Settlement Administration Costs. With Court approval, Class Counsel also will receive, in addition to the \$10,000,000.00 that Progressive will separately pay (or any such lesser amount awarded by the Court), \$5,000,000.00 (or any such lesser amount awarded by the Court) out of the funds for Settlement Class Members.

123. Progressive will not oppose or object to an Application for Attorneys' Fees, Costs, and Service Awards not exceeding the amounts set forth in the preceding paragraph.

124. Any Attorneys' Fees and Costs Award and Service Award made by the Court must be paid by Progressive to Class Counsel by wire transfer to an account designated by Class Counsel, on the Effective Date.

#### **X. FINAL APPROVAL OF THE PROPOSED SETTLEMENT**

125. Not later than 45 days prior to the original date set for the Final Approval Hearing, Class Counsel will file a Motion for Final Approval of the Settlement. The Motion shall request, at minimum, the Court to enter a Final Approval Order that: (a) certifies the Settlement Class for settlement purposes only; (b) finds the Court has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Agreement; (c) gives Final Approval to the Settlement and directs the Parties and counsel to comply with and consummate the terms of the Agreement; (d) finds that Class Counsel and the Plaintiffs adequately represented the Settlement Class; (e) finds that the terms of this Agreement are fair, reasonable, and adequate to the Settlement Class Members; (f) finds that the Notice sent to the Potential Settlement Class Members complied with MCR 3.501(C) and the requirements of Due Process; (g) finds the Opt-

Out List is a complete list of all Potential Settlement Class Members who have timely requested to opt-out of the Settlement and, accordingly, neither share in nor are bound by the Settlement; (h) provides that the Plaintiffs and all Settlement Class Members, and their heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, attorneys, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have submitted a Valid Claim, and regardless of whether they have received actual notice of the Settlement, have conclusively compromised, settled, discharged, and released all Released Claims against Defendants and the other Released Persons, and are bound by the provisions of this Agreement; (i) dismisses all claims in the Actions on the merits and with prejudice, and without attorneys' fees or costs except as provided herein, and entering Final Judgment thereon; and (j) determines the amount of the Attorneys' Fees and Costs Award to Class Counsel, and the Service Award to the Plaintiffs.

## **XI. REQUESTS TO OPT-OUT AND OBJECTIONS**

126. Potential Settlement Class Members who wish to opt-out of the Settlement must submit timely and written requests for exclusion, the effect of which will be that the Potential Settlement Class Member is not included in the Settlement Class; is not bound by the terms of the Settlement; is not entitled to a Settlement Class Member Payment even if a Claim Form is submitted; and may pursue a separate and independent remedy against Progressive. To be effective, such a request must include the Potential Settlement Class Member's name, address, telephone number, email address (if any), an unequivocal statement the Potential Settlement Class Member wishes to be excluded from the Settlement Class, and the signature of the Potential Settlement Class Member. The opt-out request must be mailed to the Settlement Administrator at the address provided in the Notice postmarked by the Opt-Out Deadline. Requests to opt-out must be exercised

individually by the Potential Settlement Class Member and are only effective as to the individual Potential Settlement Class Member requesting to opt-out. For the avoidance of doubt, any Potential Settlement Class Member who does not timely opt-out of this Settlement will be deemed a Settlement Class Member and release the Released Claims, without any action on his or her part.

127. Plaintiffs support this Settlement and agree not to opt-out of this Settlement. Any such request shall be void and of no force or effect.

128. The Settlement Administrator shall promptly log and prepare the Opt-Out List of all Potential Settlement Class Members who properly opt-out of the Settlement Class. This list shall also include those Insureds who had opted-out of any litigation class previously certified in *Perry* or *Ubillus*. The Settlement Administrator shall submit an affidavit or declaration to the Court which includes and attests to the accuracy of the Opt-Out List no later than 10 days prior to the original date set for the Final Approval Hearing.

129. All Settlement Class Members not on this Opt-Out List submitted before the Final Approval Hearing shall be bound by this Agreement.

130. Any Settlement Class Member, on his or her own, or through an attorney hired at his or her own expense, may object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards. To be timely, the objection must be in writing and postmarked and mailed to the Settlement Administrator, and filed with the Court, no later than the Objection Deadline. The right to object must be exercised individually by a Settlement Class Member or his or her attorney, and not as a member of a group, class, or subclass. Any Settlement Class Member who submits an objection in compliance with this Agreement may appear at the Final Approval Hearing, in person or by counsel, and be heard to the extent and only if permitted by the Court.

131. To be considered, an objection to the Settlement and/or Application for Attorneys'

Fees, Costs, and Service Awards must include:

- a. the objector's full name, mailing address, telephone number, and email address (if any);
- b. all factual and legal grounds for the objection, accompanied by any documentation supporting the factual grounds and any legal support for the objection known to the objector or objector's counsel;
- c. a statement of his or her membership in the Settlement Class;
- d. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
- e. the identity of all counsel (if any) who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection, and whether they will appear at the Final Approval Hearing;
- f. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
- g. any and all agreements that relate to the objection or the process of

objecting—whether written or oral—between objector or objector’s counsel and any other person or entity;

h. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

i. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

j. the objector’s signature (an attorney’s signature is not sufficient).

Class Counsel and/or Defendants’ Counsel may conduct limited discovery on any objector or objector’s counsel.

132. Any Settlement Class Member who does not timely file an objection waives the right to object, shall not be heard at the Final Approval Hearing, and is barred from seeking any review of the Settlement or Application for Attorneys’ Fees and Costs Award, and Service Award.

133. Settlement Class Members who object shall remain Settlement Class Members. To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Settlement, including the Final Approval Order and Final Judgment.

134. The Settlement Administrator shall provide Progressive and Class Counsel a copy of each objection received by the Settlement Administrator.

## **XII. DENIAL OF LIABILITY**

135. Progressive maintains it acted in accordance with the governing laws and regulations of the State of Michigan and abided by the terms of the applicable Automobile Insurance Policies. Progressive nonetheless has concluded that it is in its best interests that the Actions be settled on the terms and conditions set forth in this Agreement. Progressive reached



this conclusion after considering the factual and legal issues in the Actions, the substantial benefits of a final resolution of the Actions, and the expense that would be necessary to defend the Actions through the pending appeals and any subsequent proceedings that may occur.

136. Progressive believes that it stands a reasonable chance of success in the pending appeals and any subsequent appeal as to the merits and as to class certification. Progressive maintains that its defenses to liability and to class certification are meritorious. Because of the costs, resources, and time that would be incurred, Progressive asserts that it would not have settled the Actions except on a claims-made basis.

137. As a result of the foregoing, Progressive enters into this Agreement without admitting, conceding, or acknowledging any fault, liability, or wrongdoing of any kind, or that class certification is appropriate for any purpose other than this Settlement. This Agreement shall not be construed as an admission or concession of the truth of any of the allegations in the Actions, or of any liability, fault, or wrongdoing of any kind. The terms of this Agreement, including the claims-made nature of the Agreement, are material to Progressive's decision to settle the Actions notwithstanding its belief that its defenses are meritorious and its chances of success on appeal are significant.

### **XIII. DISMISSAL OF ACTION AND RELEASE OF CLAIMS**

138. Upon the Effective Date, the Plaintiffs and all Settlement Class Members, and their heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, attorneys, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have submitted a Claim or that Claim is determined to be invalid, will be bound by the Final Approval Order and Final Judgment, and will be conclusively deemed to have fully released, acquitted, and forever discharged all Released

Persons from all Released Claims.

#### **XIV. RETENTION OF RECORDS**

139. The Settlement Administrator, Class Counsel, and Progressive shall retain copies or images of all returned Notices, Claim Forms (including Electronic Claim Forms and/or data resulting therefrom) and correspondence relating thereto, for a period of up to two years after the Effective Date. After this time, Class Counsel shall destroy any documentary records in their possession.

#### **XV. MISCELLANEOUS PROVISIONS**

140. The Parties and their counsel will not affirmatively contact the news media, issue any press release, or hold press conferences in any media to publicize, promote, or characterize the Settlement.

141. Each Party to this Agreement warrants that he, she, or it is fully authorized to enter into this Agreement, and is acting upon his, her, or its independent judgment and upon the advice of his, her, or its counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other Party, other than the warranties and representations expressly made in this Agreement.

142. The Parties and undersigned counsel agree to undertake best efforts to effectuate this Agreement and the terms of the Settlement, including taking all steps and efforts contemplated by this Agreement, and any other reasonable steps and efforts which may become necessary by order of the Court or otherwise.

143. The headings and captions contained in this Agreement are for reference purposes only and in no way define, extend, limit, describe, or affect the scope, intent, meaning, or interpretation of this Agreement.

144. Unless otherwise noted, all references to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal or state legal holiday, such date or deadline shall be on the first day thereafter that is not a weekend or holiday.

145. Except as otherwise provided in a written amendment or modification executed by the Parties or their counsel, this Agreement contains the entire agreement of the Parties hereto and supersedes any prior agreements or understandings between them. The Parties further agree that no representation, inducement, promise, or agreement not expressly set forth in the text of this Agreement shall be of any force or effect. As of the Effective Date, the terms of this Agreement are and shall be binding upon each of the Parties and their agents, attorneys, employees, successors, and assigns, and upon all other Persons claiming any interest in the subject matter hereof through any of the Parties hereto, including any Settlement Class member. Until then, this Agreement is not binding on anyone except as necessary to seek approval of the Settlement.

146. This Agreement shall be subject to, governed by, construed, and enforced pursuant to the laws of the State of Michigan, without regard to principles of conflicts of law.

147. The exhibits to this Agreement are integral parts of the settlement and are hereby incorporated into and made parts of this Agreement.

148. To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding which may be instituted, prosecuted, or attempted in breach of this Agreement.

149. This Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned Parties and/or counsel.

150. Class Counsel agree that representations, encouragements, solicitations, or other

assistance to any Person seeking exclusion from the Settlement Class or any other Person seeking to litigate with Released Persons over any of the Released Claims in this matter could place Class Counsel in a conflict of interest with the Settlement Class. Accordingly, Class Counsel and their respective firms agree not to represent, encourage, solicit, or assist any Person in opting-out of the Settlement Class. Nothing in this paragraph shall preclude or prevent Class Counsel from answering inquiries from any Potential Settlement Class Member.

151. All Confidential Information shall be protected from disclosure by Class Counsel and the Plaintiffs to any Persons other than the Settlement Administrator, the Neutral Evaluator, and any Person the Court orders be allowed to access Confidential Information. The Parties agree that Class Counsel or anyone associated with Class Counsel's firms shall not use of any of the Confidential Information in any other litigation, whether pending or future, unless independently obtained through discovery or other procedures in that litigation.

152. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied herein.

153. This Settlement Agreement is deemed to have been prepared by counsel for all Parties and to have resulted from arms' length negotiations among the Parties with the aid of a neutral mediator. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one Party than another.

154. The Parties each have the right to terminate this Agreement by providing written notice of their election to do so within 20 days of: (a) the Court or any appellate court(s) rejecting, modifying, or denying approval of any material portion of this Settlement, except that rejection,

modification, or disapproval of the Attorneys' Fees and Costs Award and/or Service Award does not allow Plaintiffs the right to terminate this Agreement; (b) any financial obligation being imposed on Progressive in addition to and/or greater than those accepted by Progressive in this Agreement; or (c) the Court allowing a certified class of Persons who are members of the Settlement Class to opt-out of the Settlement.

155. If more than 10% of the Potential Settlement Class Members opt-out, Progressive reserves the right to terminate this Settlement. If Progressive elects to exercise its right to terminate the Settlement for this reason, Progressive must exercise that right no later than 14 days after the Opt-Out Deadline.


156. This Agreement may be amended or modified only by a written instrument signed by all Parties or their counsel. Amendments and modifications may be made without additional notice to the Potential Settlement Class Members, unless such notice is required by the Court. The terms of this Agreement, including the claims-made structure, are material terms.

*SIGNATURE PAGE FOLLOWS*

  
GonzaloUbillus (Jul 17, 2024 14:58 EDT)


Gonzalo E. Ubillus

Date: Jul 17, 2024

  
angela carter (Jul 16, 2024 17:08 EDT)

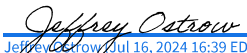
Angela Perry

Date: Jul 16, 2024

  
Michael peterson (Jul 16, 2024 17:35 CDT)


Michael Peterson

Date: Jul 16, 2024

  
Jeffrey Ostrow (Jul 16, 2024 16:39 EDT)

Jeff Ostrow  
*Counsel for Plaintiffs Angela Perry  
and Michael Peterson*

Date: Jul 16, 2024

  
Scott Jeeves (Jul 16, 2024 19:02 EDT)

Scott Jeeves  
*Counsel for Plaintiff Gonzalo E. Ubillus*

Date: Jul 16, 2024



Karl Bekeny  
*For Progressive Michigan Insurance  
Company and Progressive Marathon  
Insurance Company, and as  
Counsel for Defendants*

Date: 7/16/2024

## **INDEX TO EXHIBITS**

Ex 1 – Proposed Preliminary Approval Order

Ex 2 – First Postcard Notice

Ex 3 – Second Postcard Notice

Ex 4 – First Email Notice

Ex 5 – Second Email Notice

Ex 6 – Long Form Notice

Ex 7 – Blank Paper Claim Form

Ex 8 – Blank Electronic Claim Form

Ex 9 – Pre-Filled Electronic Claim Form / Pre-Filled Paper Claim Form

# **EXHIBIT 1**



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

Plaintiff,

v.

PROGRESSIVE MARATHON  
INSURANCE COMPANY,  
a Michigan corporation,

Defendant.

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

CLASS ACTION

*Consolidated with-*

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, and

Defendants.

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

CLASS ACTION

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

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Beth M. Rivers (P33614)  
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*Attorneys for Defendant*

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**[PROPOSED] ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

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

Date: \_\_\_\_\_

Present: \_\_\_\_\_

Hon. Timothy Connors  
Circuit Court Judge

Before the Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement. The Court has carefully reviewed the record, including the motion, the Settlement Agreement and Release and its attached exhibits.

WHEREAS, Plaintiffs Gonzalo E. Ubillus, Angela Perry, and Michael Peterson, on behalf of themselves and a proposed Settlement Class, and Defendants Progressive Michigan Insurance Company and Progressive Marathon Insurance Company have agreed, subject to Court approval, to settle these Actions upon the terms and conditions in the Agreement;

NOW, THEREFORE, based on the Agreement, and the files, records, and proceedings in these cases, and it appearing to the Court that a Final Approval hearing should be held on whether the proposed Settlement contained in the Agreement should be finally approved as fair, reasonable, and adequate;

IT IS HEREBY ORDERED that the Motion is GRANTED as follows:

1. The Agreement (including Exhibits) is incorporated by reference in this Order, and all terms the Agreement defines have the same meaning in this Order.

2. **Preliminary Approval of Settlement.** The Court preliminarily approves the Settlement as within the range of possible final approval, and as meriting submission to the Settlement Class for its consideration. The proposed Settlement terms are within the range of fairness, reasonableness, and adequacy under the circumstances to warrant providing Notice to the Settlement Class. The Agreement is the product of arm's-length negotiations between the Parties and their counsel. The Parties and their counsel had sufficient information to evaluate the strengths and weaknesses of the Actions and to conduct informed settlement discussions. Neither the Agreement nor its terms and provisions—nor any negotiations or proceedings connected with it—shall be construed as an admission or concession by the Released Persons of the truth of any allegations in the Actions or of any liability, fault, or wrongdoing of any kind whatsoever by the Released Persons.

3. **Jurisdiction.** This Court has jurisdiction over these Actions and all Parties, including Plaintiffs and all Potential Settlement Class Members.

4. **Conditional Certification of Settlement Class.** The Court previously certified a class against Progressive Marathon in *Ubillus*. See *Gonzalo E. Ubillus v. Progressive Marathon Insurance Company*, Case No. 19-000741-CK (Jan. 6, 2023) (order granting class certification). In *Perry*, the Court certified one class against Progressive Marathon and one class against Progressive Michigan. See *Angela Perry et al. v. Progressive Michigan Insurance Company et al.*, Case No. 2022-000971-CK (Mar. 7, 2023) (order granting class certification). The Parties propose a Settlement Class that is materially similar to the classes previously certified in the Actions.

5. For settlement purposes only, the Court conditionally certifies the following Settlement Class:

All Insureds covered under any Automobile Insurance Policy who made a first-party claim and received from Progressive a Total Loss Claim Payment within the Class Period.

6. Excluded from the Settlement Class are: (a) Progressive's present or former officers, directors, employees, and legal representatives; (b) the Neutral Evaluator, Class Counsel, the Washtenaw Circuit Court Judge presiding over this Action, mediator Michael Ungar, Esq., and any member of their respective immediate families; (c) Insureds with Covered Total Loss Claims for which Progressive received a valid and executed release; (d) Insureds who timely opted-out of any litigation class previously certified in the Actions; and (e) Potential Settlement Class Members who timely opt-out of the Settlement Class.

7. The Class Period is (a) July 18, 2013, through the date of Preliminary Approval for Progressive Marathon, and (b) July 18, 2016, through the date of Preliminary Approval for Progressive Michigan

8. Under MCR 3.501(A)(1)(a), the Potential Settlement Class Members are so numerous that joinder of all members is impracticable;

9. Under MCR 3.501(A)(1)(b), there are questions of law or fact common to the Potential Settlement Class Members that predominate over questions affecting only individual members;

10. Under MCR 3.501(A)(1)(c), the claims of Plaintiffs are typical of the claims of the Settlement Class;

11. Under MCR 3.501(A)(1)(d), Plaintiffs and Class Counsel appointed below will

fairly and adequately assert and protect the interests of the Settlement Class; and

12. Under MCR 3.501(A)(1)(e) and MCR 3.501(A)(2), the maintenance of this action as a class action will be superior to other available methods of adjudication in promoting the convenient administration of justice.

13. Gonzalo E. Ubillus, Michael Peterson, and Angela Perry are preliminarily appointed Class Representatives for the Settlement Class.

14. The following attorneys, all of whom were appointed as counsel for the previously certified classes in either *Ubillus* or *Perry*, are preliminarily appointed as Class Counsel for the Settlement Class: Jeff Ostrow of Kopelowitz Ostrow P.A.; E. Powell Miller, Sharon Almonrode, and Brian Saxe of The Miller Law Firm, P.C.; Andrew Shamis of Shamis & Gentile, P.A.; and Scott Edelsberg of Edelsberg Law, P.A.; Roger Mandel and Scott Jeeves of Jeeves Mandel Law Group, P.C.; Craig Rothburd of Craig E. Rothburd, P.A.; Michael Pitt of Pitt, McGhehee, Palmer, Bonanni & Rivers, P.C., and Casim Neff of Neff Insurance Law, PLLC.

15. **Notice Program, Claims Process, and Claim Forms.** The Court approves, as to form and content, Notices substantially in the forms attached as *Exhibits 2-6* to the Agreement, as well as Claim Forms substantially in the form attached as *Exhibits 7-9*. The Parties have discretion to jointly make non-material minor revisions to the Notices and Claim Forms before publishing.

16. The Court finds the Notice Program specified in the Agreement is reasonably calculated to give notice to the Settlement Class of: (a) the pendency of the Actions; (b) conditional certification of the Settlement Class; (c) the existence and terms of the Agreement; (d) Potential Settlement Class Members' rights to make Claims, opt-out of the Settlement, or object to the Settlement; and (e) matters to be decided at the Final Approval hearing. This Notice Program also satisfies the due process requirements of the Michigan and United States Constitutions, as well as

the requirements of MCR 3.501(C). The Parties and Settlement Administrator shall comply with this Notice Program, including its procedures for Notices returned as undelivered due to an incorrect address.

17. Notice of the proposed Settlement shall not be provided to Insureds who opted-out of any litigation class previously certified in *Ubillus* or *Perry* because they already excluded themselves from the Actions.

18. To be timely, the Pre-Filled Paper Claim Form or Blank Claim Form must be postmarked on or before the Claim Deadline as specified in the Agreement. The Pre-Filled Electronic Claim Form or Blank Electronic Claim Form must be submitted electronically on the Settlement Website on or before 11:59 p.m. EST on the Claim Deadline, after which the Settlement Administrator shall deactivate the portal for submitting an Electronic Claim Form.

19. **Settlement Administrator.** The Court approves, and designates as Settlement Administrator, A.B. Data Group. Class Counsel and Progressive may by written agreement substitute a different organization as Settlement Administrator, subject to approval by the Court. Absent agreement, either Class Counsel or Progressive may move the Court to substitute a different entity as Settlement Administrator, upon a showing of good cause. The Settlement Administrator must perform all obligations imposed by the Agreement, including:

- a. Sending the Email Notice, Reminder Email Notice, Postcard Notice, and Reminder Postcard Notice, to the Potential Settlement Class Members, in the manner specified in the Notice Program;
- b. Processing opt-out requests and objections to the Settlement;
- c. Implementing the Claim process, in the manner specified in the Agreement;
- d. The creation of a Settlement Website that shall contain: the Agreement; the

Long Form Notice; a downloadable Blank Paper Claim Form;; the signed Preliminary Approval Order; and answers to frequently asked questions. The Settlement Administrator must add to the Settlement Website all other material settlement-related filings, including the Motion for Final Approval and the Application for Attorneys' Fees, Costs, and Service Awards. The Settlement Website must also contain Spanish translations of the Long Form Notice and Blank Paper Claim Form. The Settlement Website shall remain accessible until 180 days after all Settlement Class Member Payments are made.

e. Additionally, the Settlement Website shall have: (i) a "Make A Claim" button permitting a Potential Settlement Class Member to access, electronically sign, and submit a Pre-Filled Electronic Claim Form, (ii) a method to access, fill out, electronically sign and submit a Blank Electronic Claim Form with an electronic signature because a Potential Settlement Class Member does not have an Unique ID, and (iii) a method to request that a Blank Paper Claim Form be mailed or emailed to the Potential Settlement Class Member.

f. The Settlement Administrator shall also maintain a toll-free IVR telephone system as further described in the Notice Program, along with a post office box for receiving opt-out requests, objections, and any other settlement-related communications. The Settlement Administrator shall promptly provide copies of all such settlement-related communications to Class Counsel and Defendants' Counsel.

20. **Final Approval Hearing.** A Final Approval Hearing shall be held before this Court at [\_\_\_\_\_] on [\_\_\_\_\_] , 2024 at the 22nd Circuit Court in Washtenaw County, 101 E. Huron Street, Ann Arbor, MI 48107-8645, or via video or teleconference. The Final Approval Hearing will address whether to enter a Final Approval Order that: (a) finally certifies the Settlement Class

for settlement purposes only; (b) finds the Court has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve this Agreement; (c) gives Final Approval to the Settlement and directs the Parties and counsel to comply with and consummate the terms of the Agreement; (d) finds Class Counsel and the Plaintiffs adequately represented the Settlement Class; (e) finds the terms of this Agreement are fair, reasonable, and adequate to the Settlement Class Members; (f) finds that the Notice sent to the Settlement Class members complied with MCR 3.501(C) and the requirements of Due Process; (g) finds the Opt-Out List is a complete list of all Potential Settlement Class Members who have timely requested to opt-out of the Settlement and, accordingly, neither share in nor are bound by the Settlement; (h) provides that the Plaintiffs and all Settlement Class Members, and their heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, attorneys, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have submitted a Valid Claim, and regardless of whether they have received actual notice of the Settlement, have conclusively compromised, settled, discharged, and released all Released Claims against Progressive and the other Released Persons, and are bound by the provisions of this Agreement; (i) dismisses all claims in the Actions on the merits and with prejudice, and without attorneys' fees or costs except as provided herein, and entering Final Judgment thereon; and (j) determines the amounts of the Attorneys' Fees and Costs Award to Class Counsel and the Service Awards to the Plaintiffs.

21. **Filing of Claims.** Valid and completed Claim Forms must be submitted by the Claim Deadline, which is 15 days after the original date set for the Final Approval Hearing. Any errors or other deficiencies identified with completed Claim Forms shall be addressed in the manner specified in the Agreement.



**22. Opt-Out Requests.**

a. Any Potential Settlement Class Member who wishes to be excluded, meaning opt-out, from the Settlement Class and thus not bound by the terms of the Agreement must submit an opt-out request. To be effective, such a request must include the Potential Settlement Class Member's name, address, telephone number, email address (if any), an unequivocal statement the Potential Settlement Class Member wishes to be excluded from the Settlement Class, and the signature of the Potential Settlement Class Member. The request must be mailed to the Settlement Administrator and postmarked by the Opt-Out Deadline, which is 30 days before the original date set for the Final Approval Hearing. For the avoidance of doubt, any Potential Settlement Class Member who does not timely opt-out of this Settlement will be deemed a Settlement Class Member and release the Released Claims.

b. No one may exercise opt-out rights on behalf of any other person—whether as agent or representative or another or otherwise—except upon proof of a legal power of attorney, conservatorship, trusteeship, or other legal authorization. No opt-out will be effective except as to the individual Potential Settlement Class Member requesting to opt-out of the Settlement Class. Thus, no one may exclude other Insureds within the Settlement Class as a group, class, or in the aggregate.

c. Any Potential Settlement Class Member who elects to opt-out shall not receive any benefits of the Settlement, shall not be bound by the terms of the Agreement, and shall have no standing to object to the Settlement or the Application for Attorneys' Fees, Costs, and Service Award.

d. No later than 10 days before the original date set for the Final Approval Hearing, the Settlement Administrator shall submit an affidavit or declaration to the Court which includes

the Opt-Out List and attests to the accuracy of that list.

**23. Objections.**

a. Any Settlement Class Member who does not submit a valid and timely opt-out request may submit an objection to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Award. To be considered, the written objection must satisfy the requirements specified in the Long Form Notice. An objection request must be postmarked and mailed to the Settlement Administrator, and filed with the Court, no later than the Objection Deadline, which is 30 days before the original date set for the Final Approval Hearing.

b. Any Settlement Class Member shall have the right to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the Settlement Class Member's own expense, provided an objection is timely filed. Each objections shall contain the following:

- i. the objector's full name, mailing address, telephone number, and email address (if any);
- ii. all factual and legal grounds for the objection, accompanied by any documentation supporting the factual grounds and any legal support for the objection known to the objector or objector's counsel;
- iii. a statement of his or her membership in the Settlement Class;
- iv. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;

- v. the identity of all counsel (if any) who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection, and whether they will appear at the Final Approval Hearing;
- vi. the number of times the objector's counsel and/or counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
- vii. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;
- viii. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);
- ix. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- x. the objector's signature (an attorney's signature is not sufficient).

The Parties may conduct limited discovery on any objector or objector's counsel. The Parties shall file their response to timely filed objections no later than 5 days prior to the original date set for the Final Approval Hearing.

c. Any Settlement Class Member who does not timely file a written objection that complies with the requirements of this Order, the Agreement, and Long Form Notice shall not be

heard at the Final Approval Hearing, and is barred from seeking any review of the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards.

d. No one may object on behalf of any other person—whether as agent or representative or another or otherwise—except upon proof of a legal power of attorney, conservatorship, trusteeship, or other legal authorization. No objection will be effective except as to the individual Settlement Class Member who objects. Thus, no one may object on behalf of other Insureds within the Settlement Class as a group, class, or in the aggregate.

e. The Settlement Administrator will give Progressive and Class Counsel a copy of each objection with supporting documentation received by the Settlement Administrator.

f. Settlement Class Members who object to the Settlement and/or the Application for Attorneys' Fees, Costs, and Service Awards shall remain Settlement Class Members and waive their right to pursue an independent remedy against Progressive and the other Released Persons. To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Approval Order.

24. **Final Approval and Application for Attorneys' Fees, Costs, and Service Awards.** Plaintiffs shall file their Motion for Final Approval of the Settlement, and Class Counsel shall file their Application for Attorneys' Fees, Costs, and Service Awards, no later than 45 days before the original date set for the Final Approval Hearing. The motion and application and all supporting documentation shall be simultaneously posted to the Settlement Website. Defendants have no obligation to make a separate filing in support of the Motion for Final Approval, but they may do so if they desire.

25. If the proposed Settlement is not finally approved by the Court, the Settlement does

not become effective, or if the Settlement becomes null and void or terminates pursuant to its terms, this Order and all later orders entered in connection with the Settlement shall become null and void and shall not be used or referred to for any purposes whatsoever in these Actions or in any other case or controversy. In this event, the Agreement and all negotiations and proceedings related to it shall be deemed to be without prejudice to the rights of the Parties, who shall be restored to their respective positions as of the date and time immediately preceding the execution of the Agreement.

26. Progressive maintains all defenses to class certification and this Order shall not be used as evidence or be construed as relevant to whether litigation classes, including the previously certified classes, should have been certified for class treatment.

27. The Class Representatives, all Potential Settlement Class Members, and any Persons purporting to act on their behalf are preliminarily enjoined from commencing, prosecuting, or continuing to litigate any action asserting against any of the Released Persons any of the claims made in the Action or the Released Claims, either directly, representatively, derivatively, or in any other capacity, whether by a complaint, counterclaim, defense, or otherwise, in any court, agency, or other authority or forum wherever located.

28. Further proceedings in the Actions are stayed, except that the Parties are authorized to use all reasonable procedures in connection with the administration of the proposed Settlement that are not materially inconsistent with either this Order or the terms of the Agreement.

29. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to Potential Settlement Class Members. The Final Approval Hearing may, from time to time and without further notice to the Settlement Class Members, be continued by Order of the Court. However, any continuance by the Court will be noted on the Settlement

Website.

30. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement

31. Based on the foregoing, the Court sets the following schedule of actions which must precede the Final Approval Hearing:

<b>EVENT</b>	<b>DATE</b>
<b>Completion of Notice Program</b>	_____, 2024 (60 days before the original date set for the Final Approval Hearing)
<b>Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards</b>	_____, 2024 (45 days before the original date set for the Final Approval Hearing)
<b>Opt-Out Deadline</b>	_____, 2024 (30 days before the original date set for the Final Approval Hearing)
<b>Objection Deadline</b>	_____, 2024 (30 days before the original date set for the Final Approval Hearing)
<b>Parties to Respond to Objections</b>	_____, 2024 (5 days before the original date set for the Final Approval Hearing)
<b>Final Approval Hearing</b>	_____, 2024 at _ :_ a.m./p.m. (a date no sooner than 120 days after Preliminary Approval)
<b>Claim Deadline</b>	_____, 2024 (15 days after the original date set for the Final Approval Hearing)

**IT IS SO ORDERED** on July \_\_, 2024.

\_\_\_\_\_  
Hon. Timothy Connors  
Circuit Court Judge

# **EXHIBIT 2**

**COURT-ORDERED LEGAL NOTICE**

**If you are or were a Progressive Insured in Michigan and received a Total Loss Claim Payment from 2013-2024, you may be entitled to a cash payment for Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee.**

Ubillus/Perry v. Progressive Settlement  
c/o Settlement Administrator for  
Michigan Circuit Court  
P.O. Box 173063  
Milwaukee, WI 53217

NOTICE ID#: [NoticeID]  
[FirstName] [LastName]  
[Attention]  
[Address 1]  
[Address 2]  
[City], [State] [Zip Code]  
[Country Code]

**Complete and return the enclosed form by [Month 00, 2024] to receive a payment.**



You may have previously received a notice that you might be a class member in a class action against Progressive Michigan Insurance Company and Progressive Marathon Insurance Company (“Progressive”). There is now a Settlement that will resolve claims in two lawsuits: *Ubillus v. Progressive Marathon Ins. Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK. This Settlement will resolve claims that Progressive breached its Michigan Automobile Insurance Policy by failing to include Sales Tax, a Certificate of Title Fee, and/or a Vehicle Registration Transfer Fee in Total Loss Claim Payments to its insureds for vehicles that Progressive determined to be a Total Loss. Progressive denies it did anything wrong.

**Why am I getting this notice?** You have been identified as a Potential Settlement Class Member because either you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through [Month 00, 2024]; or (b) a Progressive Michigan Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through [Month 00, 2024].

**Settlement Terms.** The Settlement will make available up to \$61,000,000 for the benefit of Settlement Class Members. Subject to Court approval, up to \$15,000,000 will be paid to Class Counsel for attorneys’ fees, with Progressive separately paying \$10,000,000 and the other \$5,000,000 being paid from amounts made available to Settlement Class Members. Subject to Court approval, Progressive will separately pay up to \$460,000 for litigation costs, a \$10,000 Service Award to each of the Class Representatives, and all Settlement Administration Costs. Settlement Class Member Payments will be 45% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$12,500,000 but no more than \$15,000,000 for attorneys’ fees, and will be adjusted upward if the attorneys’ fee award is \$12,500,000 or less.

**How do I make a claim to receive payment?** You must complete and mail the attached Claim Form (postage is pre-paid) or you can submit your Claim Form online at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) using your Unique ID. Claim Forms must be submitted online by **11:59 p.m. ET** on, or postmarked by, [Month 00, 2024]. Progressive has the right to audit claims for accuracy.

**What are my options?** You can opt out to preserve your right to pursue an individual case against Progressive, object to the Settlement, make a claim, or do nothing. The deadline to opt out or object is [Month 00, 2024]. You can make a claim even if you object. The Court will hold a Final Approval Hearing on [Month 00, 2024], to consider approval of the Settlement and the requests for attorneys’ fees, costs, and Service Awards. You or your own lawyer may appear and speak at the hearing at your own expense.

**How do I get more information?** Go to [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or call 1-877-390-3159 toll-free to get more information in the Long Form Notice, answers to FAQs, an online Claim Form, court filings, and the Settlement Agreement.

**1-877-390-3159**

**[www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com)**

## UBILLUS/PERRY V. PROGRESSIVE SETTLEMENT CLAIM FORM

FILL OUT EACH SECTION OF THIS FORM, SIGN WHERE INDICATED, CAREFULLY TEAR AT PERFORATION, AND MAIL. FORMS MUST BE POSTMARKED BY **MONTH DAY YEAR**. YOU MAY ALSO COMPLETE YOUR CLAIM FORM ONLINE AT [WWW.UBILLUSPERRYTOTALLOSSCLASSACTION.COM](http://WWW.UBILLUSPERRYTOTALLOSSCLASSACTION.COM).

Name & Address: [PREFILL]

UNIQUE ID: [PREFILL]

Date(s) of Loss: [PREFILL]; [PREFILL]; [PREFILL]

Mark only those that apply. I was not paid:

Sales Tax

Certificate of Title Fee

Vehicle Registration Transfer Fee

ADDRESS (if different from above)

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

CONTACT PHONE #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_

**AFFIRMATION (REQUIRED):** BY SIGNING BELOW, I CERTIFY THAT I MADE THE INSURANCE CLAIM(S) IDENTIFIED ABOVE OR I AM THE LEGALLY AUTHORIZED PERSONAL REPRESENTATIVE, GUARDIAN, OR TRUSTEE OF THE PERSON WHO MADE THE CLAIM(S), AND THAT, TO THE BEST OF MY KNOWLEDGE, THE INFORMATION ON THIS CLAIM FORM IS TRUE AND CORRECT. I UNDERSTAND PROGRESSIVE MAY AUDIT MY CLAIM.

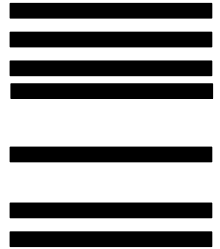
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINT NAME: \_\_\_\_\_

# BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 1000 MILWAUKEE WI

POSTAGE WILL BE PAID BY ADDRESSEE



UBILLUS/PERRY V. PROGRESSIVE  
SETTLEMENT

C/O A.B. DATA  
P.O. BOX 173063  
MILWAUKEE, WI 53217-9904



# **EXHIBIT 3**

COURT-ORDERED LEGAL NOTICE

**If you are or were a Progressive Insured in Michigan and received a Total Loss Claim Payment from 2013-2024, you may be entitled to a cash payment for Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee.**

**Reminder: Complete and return the enclosed form by [Month 00, 2024] to receive a payment.**

Ubillus/Perry v. Progressive Settlement  
c/o Settlement Administrator for  
Michigan Circuit Court  
P.O. Box 173063  
Milwaukee, WI 53217

NOTICE ID#: [NoticeID]  
[FirstName] [LastName]  
[Attention]  
[Address 1]  
[Address 2]  
[City], [State] [Zip Code]  
[Country Code]

This is a reminder notice that you may have a claim in a class action Settlement with Progressive Michigan Insurance Company and Progressive Marathon Insurance Company (“Progressive”). The Settlement resolves claims in two class action lawsuits: *Ubillus v. Progressive Marathon Ins. Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK.

**Why am I getting this notice?** You have been identified as a Potential Settlement Class Member because either you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through [Month 00, 2024]; or (b) a Progressive Michigan Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through [Month 00, 2024].

**What is this lawsuit about?** This Settlement will resolve claims that Progressive breached its Michigan Automobile Insurance Policy in Michigan by failing to include a Sales Tax Payment, a Certificate of Title Fee, and/or a Vehicle Registration Transfer Fee in Total Loss Claim Payments to its insureds for vehicles that Progressive determined to be a Total Loss. Progressive denies it did anything wrong.

**What can I receive from the Settlement?** The Settlement will make available up to \$61,000,000 for the benefit of Settlement Class Members. Settlement Class Member Payments will be 45% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$12,500,000 but no more than \$15,000,000 for attorneys’ fees, and will be adjusted upward if the attorneys’ fee award is \$12,500,000 or less .

**How do I make a claim?** If you have not yet submitted a Claim Form, you must complete and mail the attached Claim Form (postage is pre-paid) or submit your completed Claim Form online at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) to make a claim. Claim Forms must be submitted online by **11:59 p.m. ET** on, or postmarked by, [Month 00, 2024]. Progressive has the right to audit claims for accuracy.

Go to [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or call 1-877-390-3159 toll-free to get more detailed information in the Long Form Notice, answers to FAQs, an online Claim Form, court filings, and the Settlement Agreement.

**THIS IS ONLY A REMINDER: IF YOU ALREADY SUBMITTED A CLAIM FORM, YOU DO NOT NEED TO DO ANYTHING ELSE TO GET A PAYMENT.**

**1-877-390-3159**

**[www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com)**

**UBILLUS/PERRY V. PROGRESSIVE SETTLEMENT CLAIM FORM**

FILL OUT EACH SECTION OF THIS FORM, SIGN WHERE INDICATED, CAREFULLY TEAR AT PERFORATION, AND MAIL. FORMS MUST BE POSTMARKED BY **MONTH DAY YEAR**. YOU MAY ALSO COMPLETE YOUR CLAIM FORM ONLINE AT **WWW.UBILLUSPERRYTOTALLOSSCLASSACTION.COM**.

Name & Address: [PREFILL]

UNIQUE ID: [PREFILL]

Date(s) of Loss: [PREFILL]; [PREFILL]; [PREFILL]

Mark only those that apply. I was not paid:

Sales Tax

Certificate of Title Fee

Vehicle Registration Transfer Fee

ADDRESS (if different from above)

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

CONTACT PHONE #: (\_\_\_\_)\_\_\_\_ - \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_

**AFFIRMATION (REQUIRED):** BY SIGNING BELOW, I CERTIFY THAT I MADE THE INSURANCE CLAIM(S) IDENTIFIED ABOVE OR I AM THE LEGALLY AUTHORIZED PERSONAL REPRESENTATIVE, GUARDIAN, OR TRUSTEE OF THE PERSON WHO MADE THE CLAIM(S), AND THAT, TO THE BEST OF MY KNOWLEDGE, THE INFORMATION ON THIS CLAIM FORM IS TRUE AND CORRECT. I UNDERSTAND PROGRESSIVE MAY AUDIT MY CLAIM.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINT NAME: \_\_\_\_\_

# BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 1000 MILWAUKEE WI

POSTAGE WILL BE PAID BY ADDRESSEE



UBILLUS/PERRY V. PROGRESSIVE  
SETTLEMENT

C/O A.B. DATA  
P.O. BOX 173063  
MILWAUKEE, WI 53217-9904





# **EXHIBIT 4**

Subject: Notice of Proposed Class Action Settlement

**If you are or were a Progressive Insured in Michigan and received a Total Loss Claim Payment from 2013-2024, you may be entitled to a cash payment for Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee.**

### **How do I make a claim to receive payment?**

To make a claim, click (here), enter your Unique ID [Unique ID], and complete and submit your Claim Form online. You can also print and submit your completed Claim Form by mail. Claim Forms must be submitted online by **11:59 p.m. ET** on, or postmarked by, **[Month 00, 2024]**. Your Claim Form may be audited by Progressive for accuracy.

### **Why am I getting this notice?**

You may have previously received a notice that you might be a class member in a class action against Progressive Michigan Insurance Company and Progressive Marathon Insurance Company (“Progressive”). There is now a Settlement that will resolve claims in two lawsuits: *Ubillus v. Progressive Marathon Ins. Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK.

You have been identified as a potential Settlement Class member because either you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through **[Month 00, 2024]**; or (b) a Progressive Michigan Automobile Insurance Company in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through **[Month 00, 2024]**.

### **What is this lawsuit about?**

This Settlement will resolve claims that Progressive breached its Michigan Automobile Insurance Policy by failing to include Sales Tax, a Certificate of Title Fee, and/or a Vehicle Registration Transfer Fee in Total Loss Claim Payments to its insureds for vehicles that Progressive determined to be a Total Loss. Progressive denies these allegations and maintains that it at all times complied with the terms of its Michigan Automobile Insurance Policy.

### **Settlement Terms**

The Settlement will make available up to \$61,000,000 for the benefit of Settlement Class Members. Subject to Court approval, up to \$15,000,000 will be paid to Class Counsel for attorneys’ fees, with Progressive separately paying \$10,000,000 and the other \$5,000,000 being paid from amounts made available to Settlement Class Members. Subject to Court approval, Progressive will separately pay up to \$460,000 for litigation costs, a \$10,000 Service Award to each of the Class Representatives, and all Settlement Administration Costs. Settlement Class Member Payments will be 45% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$12,500,000.00 and but no more than \$15,000,000 for attorneys’ fees, and will be adjusted upward if the attorneys’ fee award is \$12,500,000.00 or less.

### **What are my options?**

You can opt out of the Settlement Class to preserve your right to pursue an individual case against Progressive, object to the Settlement, make a claim, or do nothing. The deadline to opt out or object is **[Month 00, 2024]**. You can make a claim even if you object, but not if you opt out. The Court will hold a Final Approval Hearing on **[Month 00, 2024]**, to consider if it will approve the Settlement and the requests for attorneys' fees, costs, and Service Awards. You or your own lawyer may appear and speak at the hearing at your own expense.

### **What do I do if I already made a claim by mail?**

You may have previously received, or will receive, a postcard notice with a detachable Claim Form allowing you to make a claim by mail. If you make a claim by mail, do not submit a claim electronically. Please submit only one Claim Form.

### **How do I get more information?**

Go to [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or call 1-877-390-3159 toll-free to get more detailed information in the Long Form Notice, answers to FAQs, an online Claim Form, court filings, and the Settlement Agreement.

**1-877-390-3159**

**[www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com)**

# **EXHIBIT 5**

Subject: Reminder Notice to Claim a Payment in Progressive Settlement

**If you are or were a Progressive Insured in Michigan and received a Total Loss Claim Payment from 2013-2024, you may be entitled to a cash payment for Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee.**

**REMINDER: Claim your payment by [Month 00, 2024].**

**How do I make a claim to receive payment?** If you have not yet submitted a Claim Form, click (here), enter your Unique ID [Unique ID], and complete and submit your Claim Form online. You can also submit your completed Claim Form by mail. Claim Forms must be submitted online by **11:59 p.m. ET** on, or postmarked by, [Month 00, 2024]. Your Claim Form may be audited by Progressive for accuracy.

**If you already submitted a claim, you do not need to submit another Claim Form.**

**What can I receive from the Settlement?** The Settlement will make available up to \$61,000,000 for the benefit of Settlement Class Members. Settlement Class Member Payments will be 45% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$12,500,000 but no more than \$15,000,000 for attorneys' fees, and will be adjusted upward if the attorneys' fee award is \$12,500,000 or less.

**Why am I getting this reminder?** You have been identified as a potential Settlement Class member because either you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through [Month 00, 2024]; or (b) a Progressive Michigan Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through [Month 00, 2024].

You may have previously received a Postcard Notice and/or an Email Notice about this class action settlement. As noted above, if you already submitted a claim, you can ignore this reminder.

**What is this lawsuit about?** The Settlement is with Progressive Michigan Insurance Company and Progressive Marathon Insurance Company ("Progressive") in two class action lawsuits: *Ubillus v. Progressive Marathon Ins. Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK. This Settlement will resolve claims that Progressive breached its Michigan Automobile Insurance Policy by failing to include Sales Tax, a Certificate of Title Fee, and/or a Vehicle Registration Transfer Fee in Total Loss Claim Payments to its insureds for vehicles that Progressive determined to be a Total Loss. Progressive denies these allegations and maintains that it at all times complied with the terms of its Michigan Automobile Insurance Policy.

Go to [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or call 1-877-390-3159 toll-free to get more detailed information in the Long Form Notice, answers to FAQs, an online Claim Form, court filings, and the Settlement Agreement.

**THIS IS ONLY A REMINDER: IF YOU ALREADY SUBMITTED A CLAIM FORM BY MAIL OR ONLINE, YOU DO NOT NEED TO DO ANYTHING ELSE TO GET A PAYMENT.**

1-877-390-3159

[www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com)

# **EXHIBIT 6**

**If you are or were a Progressive Insured in Michigan and received a Total Loss Claim Payment from 2013-2024, you may be entitled to a cash payment for Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee.**

IMPORTANT CLASS ACTION NOTICE – PLEASE READ CAREFULLY

**A state court authorized this notice. This is not a solicitation from a lawyer.**

- A Settlement has been reached in two class action lawsuits: *Ubillus v. Progressive Marathon Ins. Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK.
- This Settlement will resolve the claims of all Settlement Class Members against Progressive Michigan Insurance Company and Progressive Marathon Insurance Company (“Progressive”) involving Covered Total Loss Claims under an Automobile Insurance Policy. The lawsuits allege that Progressive breached its Michigan Automobile Insurance Policy by failing to include Sales Tax, a Certificate of Title Fee, and/or a Vehicle Registration Transfer Fee in Total Loss Claim Payments to its insureds for vehicles that Progressive determined to be a Total Loss. Progressive denies these allegations and maintains that it at all times complied with the terms of its Michigan Automobile Insurance Policy.
- You may be included in the Settlement Class if either you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through [Month 00, 2024]; or (b) a Progressive Michigan Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through [Month 00, 2024].
- The Settlement will make available up to \$61,000,000.00 million for the benefit of Settlement Class Members who submit Valid Claims. Subject to Court approval, up to \$15,000,000 will be paid to Class Counsel for attorneys’ fees, with Progressive separately paying \$10,000,000 and the other \$5,000,000 being paid from amounts made available to Settlement Class Members. Subject to Court approval, Progressive will separately pay up to \$460,000 for litigation costs, a \$10,000 Service Award to each of the Class Representatives, and all Settlement Administration Costs. Settlement Class Member Payments will be 45% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$12,500,000 but no more than \$15,000,000 for attorneys’ fees, and will be adjusted upward if the attorneys’ fee award is \$12,500,000 or less. Progressive has the right to audit Claims for accuracy.
- **Your legal rights are affected even if you do nothing. Please read this notice carefully.**

## YOUR LEGAL RIGHTS AND OPTIONS

<b>SUBMIT A CLAIM</b>	The only way to get a Settlement Class Member Payment is to submit a Valid Claim. Claims must be submitted electronically by 11:59 p.m. ET on, or be postmarked by, [Month 00, 2024].
<b>OPT-OUT</b>	Exclude yourself from the Settlement Class and receive no money from the Settlement. This is the only choice that allows you to bring or join another lawsuit against Progressive relating to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy. You may not submit a claim or object to the Settlement if you exclude yourself. Opt-out requests must be postmarked by [Month 00, 2024].
<b>OBJECT</b>	Write to the Court about why you don't like the Settlement, the amount of attorneys' fees and costs, or the Service Awards to the Class Representatives. Objections must be postmarked by [Month 00, 2024]. You may still submit a Claim for a Settlement Class Member Payment, and you will still be bound by the Settlement if it is approved by the Court. You cannot, however, opt-out and also object.
<b>GO TO A HEARING</b>	If you object, you may ask to speak in Court at the Final Approval Hearing about the fairness of the Settlement, the amount of attorneys' fees and costs, or the Service Awards to the Class Representatives. If you want your own attorney to represent you, you must pay for that attorney. Your objection must give notice of your intent to appear.
<b>DO NOTHING</b>	Get no payment. You will release your claims, and you will have no right to sue later for the claims released by the Settlement.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice. The deadlines may be moved or modified, so please check the Settlement website at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) regularly for updates and further details.
- The Court in charge of this case still has to decide whether to finally approve the Settlement. Settlement Class Member Payments will be made to those who qualify and submit a Valid Claim, if the Court approves the Settlement and after any appeals are resolved in favor of upholding the Settlement. Please be patient.



## WHAT THIS NOTICE CONTAINS

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## BASIC INFORMATION

### 1. Why should I read this Notice?

You may have previously received a notice that you might be a class member in a class action against either Progressive Marathon Insurance Company alone, or Progressive Marathon and Progressive Michigan Insurance Company (collectively, “Progressive”).

A class action is a lawsuit in which one or more individuals bring claims on behalf of other persons. These persons are referred to as a “Class” or “Class Members.” In a certified class action, the Court resolves certain legal issues, claims, and/or defenses for all Class Members in a single action, except for those persons who ask in writing to be excluded from the class.

The Court authorized this Notice because you have a right to know about a proposed Settlement in two lawsuits. Those lawsuits are *Ubillus v. Progressive Marathon Ins. Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK. A Settlement Class has been certified in those lawsuits. You are a Potential Settlement Class Member because either you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through [Month 00, 2024]; or (b) a Progressive Michigan Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through [Month 00, 2024].

If you are a Potential Settlement Class Member, you will be bound by the Settlement and judgment in these lawsuits, unless you timely request to be excluded from the Settlement Class, regardless of whether you submit a claim for payment.

### 2. What are these lawsuits about?

The *Ubillus* and *Perry* cases allege that Progressive Marathon and Progressive Michigan breached their Automobile Insurance Policies by failing to include Sales Tax, a Certificate of Title Fee, and/or a Vehicle Registration Transfer Fee in Total Loss Claim Payments to its insureds for vehicles that Progressive determined to be a Total Loss. Progressive denies these allegations and maintains that it at all times complied with the terms of its Michigan Automobile Insurance Policy.

“Actual Cash Value” is determined by the fair market value, age, and condition of the Total Loss vehicle at the time the loss occurs, as calculated by Progressive during the Total Loss settlement process and before the application of the deductible and inclusion of any Sales Tax Payment or Fees. As to each Potential Settlement Class Member’s Total Loss vehicle, Plaintiffs do not contest Progressive’s calculation of its Actual Cash Value.

“Certificate of Title Fee” means the \$15.00 fee for applying for a certificate of title in the State of Michigan during the Class Period under MCL §§ 257.217 and 257.806.

“Sales Tax Payment” is calculated pursuant to MCL § 205.52(1) by applying a 6% tax rate to the Actual Cash Value assigned by Progressive to the Potential Settlement Class Member’s Total Loss vehicle.

“Total Loss” means an insured vehicle that sustained damage which Progressive determined:

(a) would cost 75% or more of the vehicle's Actual Cash Value to repair; or (b) was stolen and either not recovered or recovered with one or more major component parts missing, destroyed, or damaged and not salvageable.

"Vehicle Registration Transfer Fee" means the \$8.00 fee *before* September 29, 2020, or the \$10.00 fee *on or after* September 29, 2020, for applying to transfer the registration of a vehicle in the State of Michigan under MCL § 257.809.

### **3. Who is involved?**

The people who filed the *Ubillus* and *Perry* cases on behalf of the Settlement Class, called "Class Representatives," are Gonzalo Ubillus, Angela Perry, and Michael Peterson. The people who sued are also called the "Plaintiffs." The companies they sued (in these cases, Progressive Marathon and Progressive Michigan) are the "Defendants" and may be referred to together as Progressive.

### **4. Why is there a Settlement?**

The cases have not been finally resolved in favor of the Plaintiffs or Progressive, and issues in both cases were on appeal when the Parties participated in substantial settlement discussions, including before a third-party mediator. This Settlement was reached as a result of those discussions. By agreeing to the Settlement, the Parties avoid the risks and costs of further litigation, including current and future appeals and a trial. Plaintiffs and Class Counsel believe the terms and conditions of this Settlement are fair, reasonable, and adequate, and that this Settlement is in the best interests of Plaintiffs and the Settlement Class. Settlement Class Members with Valid Claims receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that Progressive did anything wrong.

### **5. If I act on my rights in this Settlement, will it affect my insurance policy with Progressive?**

Your rights under your Automobile Insurance Policy are affected only as to Covered Total Loss Claims within the Class Period. As to Covered Total Loss Claims within the Class Period, this Settlement affects your rights unless you exclude yourself from the Settlement Class. Aside from any Covered Total Loss Claim(s) you may have made within the Class Period(s), your rights under any current insurance policy with Progressive will not be affected.

## **WHO IS IN THE SETTLEMENT?**

### **6. Am I part of the Settlement?**

As mentioned above, you are a Potential Settlement Class Member if you were insured under: (a) a Progressive Marathon Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2013, through [Month 00, 2024]; or (b) a Progressive Michigan Automobile Insurance Policy in Michigan, made a first-party claim for physical damage or theft to a vehicle(s), and received a Total Loss Claim Payment from July 18, 2016, through [Month 00, 2024].

Excluded from the Settlement Class are: (a) Progressive's present or former officers, directors, employees, and legal representatives; (b) the Neutral Evaluator, Class Counsel, the Washtenaw Circuit Court Judge presiding over this Action, mediator Michael Ungar, Esq., and any member of their respective immediate families; (c) Insureds with Covered Total Loss Claims for which Progressive received a valid and executed release; (d) Insureds who timely opted-out of any litigation class previously certified in the Actions; and (e) Potential Settlement Class Members who timely opt-out of the Settlement Class.

If you received notice of these lawsuits by mail and/or email, Progressive's records indicate you may be a Potential Settlement Class Member.

## **7. If I excluded myself previously, am I still part of the Settlement?**

If you previously excluded yourself by opting-out of the certified class in either *Ubillus* or *Perry* in 2023, you are not included in the Settlement.

If you did not previously opt-out and want to keep your right to bring or join another lawsuit against Progressive relating to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy, you must opt-out from the Settlement. If you opt-out, you will not be eligible to submit a Claim Form to get any money from the Settlement.

If you want to remain in the Settlement, you do not need to take any action. You must submit a Claim to request a Settlement Class Member Payment (*see* Question 12).

## **8. What if I am still not sure if I'm included?**

If you are not sure whether you are included in the Settlement Class, or if you have any other questions, visit [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or call 1-877-390-3159. You may also mail questions to the Settlement Administrator at Ubillus Perry Total Loss Settlement, c/o A.B. Data, Ltd., P.O. Box 173063, Milwaukee, WI 53217 or email [info@UbillusPerryTotalLossClassAction.com](mailto:info@UbillusPerryTotalLossClassAction.com).

## **THE SETTLEMENT BENEFITS**

### **9. What does the Settlement provide?**

If the Settlement is approved and becomes final, it will make available up to \$61,000,000 for the benefit of Settlement Class Members. The amount represents 65% of the Sales Tax Payments, Certificate of Title Fees, and and/or Vehicle Registration Transfer Fees sought by Potential Settlement Class Members.

Subject to Court approval, up to \$15,000,000 will be paid to Class Counsel for attorneys' fees, with Progressive separately paying \$10,000,000 and the other \$5,000,000 being paid from

Visit [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or Call 877-390-3159.  
Para Un Notificacion en Español, Lamar o Visitar Nuestro Website.

amounts made available to Settlement Class Members. Subject to Court approval, Progressive will separately pay up to \$460,000 for litigation costs, a \$10,000 Service Award to each of the Class Representatives, and all Settlement Administration Costs. Settlement Class Member Payments will be (a) 45% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$12,500,000.00 but no more than \$15,000,000.00 for attorneys' fees; (b) 55% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded over \$10,000,000.00 but no more than \$12,500,000.00 for attorneys' fees; and (c) 65% of any unpaid Sales Tax, Certificate of Title Fee, and/or Vehicle Registration Transfer Fee, provided Class Counsel is awarded \$10,000,000.00 or less for attorneys' fees (see Question 10).

The Settlement Agreement has more information and is available at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com).

## **10. What can I get from the Settlement?**

You can get a Settlement Class Member Payment if you submit a valid Claim Form (*see* Question 12).

If the Court approves payment of over \$12,500,000.00 but no more than \$15,000,000.00 for attorneys' fees, Progressive will pay 45% of the Sales Tax Payments and Fees to Settlement Class Members, to wit: (a) 45% of the Sales Tax Payment; (b) \$6.75 towards each Settlement Class Member's Certificate of Title Fee; and (c) \$3.60 towards each Settlement Class Member's Vehicle Registration Transfer Fee for total losses occurring before September 29, 2020, or \$4.50 towards that fee for total losses occurring on or after September 29, 2020.

If the Attorneys' Fees and Costs Award is over \$10,000,000.00 but no more than \$12,500,000.00, Progressive will pay 55% of the Sales Tax Payments and Fees to Settlement Class Members, to wit: (a) 55% of the Sales Tax Payment; (b) \$8.25 towards each Settlement Class Member's Certificate of Title Fee; and (c) \$4.40 towards each Settlement Class Member's Vehicle Registration Fee for total losses occurring before September 29, 2020, or \$5.50 towards that fee for total losses occurring on or after September 29, 2020.

If the Attorneys' Fees and Costs Award is \$10,000,000.00 or less, Progressive will pay 65% of the Sales Tax Payments and Fees to Settlement Class Members, to wit: (a) 65% of the Sales Tax Payment; (b) \$9.75 towards each Settlement Class Member's Certificate of Title Fee; and (c) \$5.20 towards each Settlement Class Member's Vehicle Registration Transfer Fee for total losses occurring before September 29, 2020, or \$6.50 towards that fee for total losses occurring on or after September 29, 2020.

## **11. When will I get my payment?**

Settlement Class Members who submit Valid Claims will receive their Settlement Class Member Payments by check from Progressive only after the Court grants Final Approval to the Settlement and any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

## HOW TO RECEIVE A PAYMENT

### 12. How can I get a payment?

To get a payment from the Settlement, you must complete and submit a Claim Form by [Month 00, 2024]. A Postcard Notice and Email Notice (if Progressive had an email address) with a Unique ID was sent to Insureds that Progressive's records indicate may be Potential Settlement Class Members.

You are encouraged to use your Unique ID to complete and submit your Pre-filled Electronic Claim Form online at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com). If you do not know your Unique ID, you can call 1-877-390-3159 for help.

Alternatively, if you received a Postcard Notice, it included a detachable Pre-Filled Paper Claim Form that you can complete, sign, and return by mail. Claim Forms submitted by mail must be sent to Ubillus Perry Total Loss Settlement, c/o A.B. Data, Ltd., P.O. Box 173063, Milwaukee, WI 53217.

If you did not receive, have misplaced, or discarded the Postcard Notice or Email Notice, a Blank Paper Claim Form, which must be mailed to the address above, or Blank Electronic Claim Form to be submitted online, is available at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or by calling 1-877-390-3159.

Claim Forms must be submitted electronically by 11:59 p.m. ET on, or postmarked by, no later than [Month 00, 2024]. Progressive reserves the right to audit your Claim Form for accuracy.

Only one valid Claim Form will be accepted per Settlement Class Member. If you had more than one Covered Total Loss Claim during the Class Period, your Claim Form will cover all such claims.

### EXCLUDING YOURSELF (“OPTING-OUT”) FROM THE SETTLEMENT

If you want to keep the right to bring or join another lawsuit against Progressive relating to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy, then you must take steps to get out of the Settlement. This is called excluding yourself – also referred to as “opting-out” of the Settlement Class. You won't get a payment from this Settlement if you opt-out.

### 13. How do I opt-out of the Settlement Class?

To opt-out of the Settlement Class, you must send a written request for exclusion postmarked by [Month 00, 2024], to:

Ubillus/Perry Total Loss Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee, WI 53217

Your request for exclusion *must* contain:

- Your full name, address, telephone number, and email address (if you have one);
- Your Unique ID from your notice (if you have one);

Visit [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or Call 877-390-3159.  
Para Un Notificacion en Español, Lamar o Visitar Nuestro Website.

- A brief statement that you want to be excluded from the Settlement Class in *Ubillus v. Progressive Marathon Insurance Co.*, No. 2019-741-CK, and *Perry, et al. v. Progressive Michigan Ins. Co., et al.*, No. 2022-971-CK; and
- Your signature.

Only individual requests to opt out of the Settlement Class on a personal basis are allowed. “Mass” or “class” opt-outs are not allowed according to the terms of the Settlement.

If you do not follow these procedures by the above-stated Opt-Out Deadline, you will remain in the Settlement Class and will be bound by the Court’s orders in these cases and by the Settlement Agreement if it receives Final Approval from the Court, even if you do not submit a Claim Form.

#### **14. If I opt-out, can I still get a payment?**

No. You will not get a payment if you opt-out of the Settlement Class.

#### **15. If I opt-out, will the lawyers for the Settlement Class still represent me?**

No. Class Counsel (*see* Question 18) will no longer represent you if you opt-out. If you bring your own lawsuit against Progressive after you exclude yourself, you will have to hire and pay your own lawyer for that lawsuit, and you will have to prove your claim. If you exclude yourself so you can start or continue your own lawsuit against Progressive, you should talk to your own lawyer soon, because your claim may be subject to a statute of limitations deadline for filing a lawsuit.

#### **16. If I don’t opt-out, can I sue Progressive for the same thing later?**

No. If the Court approves the proposed Settlement and you do not opt-out, you give up (or “release”) the right to sue Progressive for claims that arise out of or relate to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy.

#### **17. What am I giving up to stay in the Settlement?**

If the Settlement becomes final, you can’t sue Progressive or be part of any other lawsuit against Progressive that arises out of or relates to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy. Unless you opt-out, all orders of the Court will bind you, as will the terms of the Settlement if approved by the Court.

The Settlement Agreement describes the specific claims you give up if you remain in the Settlement. You can review a copy of the Settlement Agreement at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com). Please read it carefully.

If you have any questions, you can talk to the lawyers listed in Question 18 for free or you can talk to your own lawyer if you have questions about what this means.

## THE LAWYERS REPRESENTING YOU

### 18. Do I have a lawyer in this case?

Yes. The Court has appointed the following lawyers as “Class Counsel”:

Roger L. Mandel Scott R. Jeeves JEEVES MANDEL LAW GROUP, P.C. 2132 Central Ave. St. Petersburg, FL 33712	Jeff Ostrow KOPELOWITZ OSTROW P.A. 1 W. Las Olas Blvd., Suite 500 Fort Lauderdale, FL 33301
Michael L. Pitt PITT, MCGEHEE, PALMER, BONANNI & RIVERS, P.C. 117 W. 4th St., #200 Royal Oak, MI 48067	E. Powell Miller Sharon S. Almonrode Brian M. Saxe THE MILLER LAW FIRM, P.C. 950 West University Drive, Suite 300 Rochester, MI 48307
Craig E. Rothburd CRAIG E. ROTHBURD, P.A. 320 W. Kennedy Blvd., Suite 700 Tampa, FL 33606	Scott Edelsberg EDELSBERG LAW, P.A. 20900 NE 30 <sup>th</sup> Ave., #417 Aventura, FL 33180
Casim Adam Neff NEFF INSURANCE LAW, PLLC 4051 27th Ave. N St. Petersburg, FL 33733	Andrew Shamis SHAMIS & GENTILE, P.A. 14 N.E. 1st Ave., Suite 705 Miami, FL 33132

You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 19. Should I get my own lawyer?

If you choose to remain in the Settlement, you do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want your own lawyer, you will be responsible for paying that lawyer. You can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

### 20. How will the lawyers be paid?

Class Counsel have not been paid anything to date for their work on this case. Class Counsel will ask the Court to award up to \$15,000,000 for attorneys’ fees and \$460,000 for litigation costs.

If approved, Progressive will separately pay Class Counsel \$10,000,000 million in attorneys’ fees, and the remaining \$5,000,000 in attorneys’ fees will be paid from amounts made available to Settlement Class Members.

Class Counsel will also ask the Court for Service Awards of up to \$10,000 to each of the Plaintiffs for serving as Class Representatives.



The Application for Attorneys' Fees, Costs, and Service Awards will be filed on or before **[Month 00, 2024]**. It will be posted on [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com).

### OBJECTING TO THE SETTLEMENT

You have the right to tell the Court that you do not agree with the Settlement or some part of it.

#### 21. How can I tell the Court if I do not like the Settlement?

If you are a Settlement Class Member, you can object to any part of the proposed Settlement and/or the Application for Attorneys' Fees, Costs, and Service awards. The Court will consider your views. You cannot ask the Court for a different Settlement; the Court can only approve or reject the Settlement. If the Court denies approval of the Settlement, no Settlement Class Member Payments will be provided and the lawsuits will continue. But if you object to the Settlement and your objection is overruled, you will be bound the Settlement's terms and all rulings and orders of the Court. If you object to the terms of the Settlement, you cannot opt-out from the Settlement Class.

Your objection must be filed or mailed to the Clerk of the Court by **[Month 00, 2024]**, and copy mailed to the Settlement Administrator, at the following addresses:

COURT	SETTLEMENT ADMINISTRATOR
Clerk of Court Circuit Court for the County of Washtenaw 101 E. Huron St., Ann Arbor, MI 48104Ann Arbor, MI 48107	Ubillus Perry Total Loss Settlement c/o A.B. Data, Ltd. P.O. Box 173001 Milwaukee, WI 53217

Your objection letter must include the following:

- Your full name, address, telephone number, and email address (if you have one);
- A statement saying you object to the Settlement in *Ubillus v. Progressive Marathon Insurance Co.*, No. 2019-741-CK and *Perry v. Progressive Michigan Ins. Co.*, No. 2022-971-CK;
- All factual and legal grounds for the objection, accompanied by any documentation supporting the factual grounds and any legal support for the objection known to the objector or objector's counsel;
- A statement indicating your membership in the Settlement Class;
- The number of times you objected to a class action settlement within the last five years, the caption of each case in which you made an objection, and a copy of any orders related to or ruling upon your prior objections that were issued by the trial and appellate courts in each listed case;
- The identity of all counsel (if any) who represent you, including any former or current counsel who may be entitled to compensation for any reason related to the objection, and whether they will appear at the Final Approval Hearing;
- The number of times your counsel and/or counsel's law firm have objected to a class action settlement within the last five years preceding the date of the filed objection, the caption of each case in which your counsel and/or the firm made an objection, and a copy of any orders related to or ruling upon counsel's or the counsel's firm's prior objections that were issued by the trial and appellate courts in each listed case in which

the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;

- Any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);
- A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- Your signature (an attorney's signature is not sufficient).

If you file a timely objection, it will be considered by the Court at the Final Approval Hearing. You do not need to attend the Final Approval Hearing for the Court to consider your objection.

## **22. What is the difference between objecting and asking to opt-out?**

Objecting is simply telling the Court that you don't like something about the Settlement. You can only object if you stay in the Settlement Class. If you object to the Settlement, you are still a Settlement Class Member. You may file a Claim even if you object.

Opting-out is telling the Court that you don't want to be a part of the Settlement Class or the Settlement. If you opt-out, you have no basis to object to the Settlement and appear at the Final Approval Hearing because it no longer affects you. However, you may then be able to separately sue or continue to sue Progressive for legal claims that arise out of or relate to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy.

## **THE FINAL APPROVAL HEARING**

The Court will hold a hearing (called a Final Approval Hearing) to decide whether to approve the Settlement. You may attend and ask to speak, but you don't have to.

## **23. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing on [Month 00, 2024], at X:X0 x.m. at the 22nd Circuit Court for the County of Washtenaw in Courtroom XX, 101 E. Huron St., Ann Arbor, MI 48104. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or call 1-877-390-3159 for updates.

At this hearing, the Court will consider whether to finally approve the Settlement as fair, reasonable, and adequate. If there are objections, the Court will consider them at that time and listen to people who asked to speak at the hearing. The Court may also decide how much to award Class Counsel for attorneys' fees and costs and the Class Representatives' Service Awards. We do not know how long these decisions will take so please be patient.

## **24. Do I have to come to the hearing?**

No. Class Counsel will answer questions the Court may have at the Final Approval Hearing. If you file an objection, you don't have to come to Court to talk about it. As long as your objection is timely, the Court will consider it. You may attend at your own expense and also pay your own

lawyer to attend, but it is not necessary.

## **25. May I speak at the hearing?**

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include this request with your objection as described in Question 21.

### **IF YOU DO NOTHING**

## **26. What happens if I do nothing?**

If you are a Potential Settlement Class Member and you do nothing, you will not get any money from this Settlement. You will be bound by all of the Court's orders, and the terms of the Settlement if approved by the Court. You also will not be able to bring or join another lawsuit against Progressive that arises out of or relates to the settlement of your Covered Total Loss Claim(s) under your Automobile Insurance Policy. To be eligible for a Settlement Class Member Payment, you must complete and submit a Claim Form by **Month 00, 2024** (*see* Question 12).

### **GETTING MORE INFORMATION**

## **27. How can I get more information?**

This notice is only a summary. More details are in the Settlement Agreement, available at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com). You may also contact the Settlement Administrator by email at [info@UbillusPerryTotalLossClassAction.com](mailto:info@UbillusPerryTotalLossClassAction.com), toll-free at 1-877-390-3159 or by writing to: Ubillus Perry Total Loss Class Action, c/o A.B. Data, Ltd., P.O. Box 173063, Milwaukee, WI 53217. Finally, you may contact the Class Counsel (*see* question 18 above).

**PLEASE DO NOT CALL OR WRITE TO THE COURT FOR INFORMATION OR ADVICE.**

# **EXHIBIT 7**

# CLAIM FORM

## INSTRUCTIONS

You are encouraged to submit your Claim using the Pre-Filled Electronic Claim Form on the Settlement Website or detachable Pre-Filled Paper Claim Form, using the Unique ID that appears on the Postcard Notice or Email Notice sent to you. Doing so will allow for the most efficient and accurate processing of your Claim.

If you misplaced or discarded the Postcard Notice or Email Notice containing your Unique ID, contact the Settlement Administrator by calling 1-877-390-3159 or email [info@UbillusPerryTotalLossClassAction.com](mailto:info@UbillusPerryTotalLossClassAction.com) to obtain your Unique ID.

**PLEASE NOTE: If you do not have the Unique ID, you must submit your Claim using this form by the Claim Deadline set forth below, even if you have requested it from the Settlement Administrator.**

To submit a claim, please complete the form below and provide:

- Your full name;
- Your Progressive Marathon Insurance Company or Progressive Michigan Insurance Company automobile insurance policy number or your claim number for your Covered Total Loss Claim(s);
- Whether you were not previously paid Sales Tax, a Certificate of Title Fee, or a Vehicle Registration Transfer Fee;
- If you had more than one Covered Total Loss Claim paid during the following class period, please include all claim numbers:
  - For Progressive Marathon Insurance Company: July 18, 2013, through [Month 00, 2024]
  - For Progressive Michigan Insurance Company: July 18, 2016, through [Month 00, 2024];
- Your current address;
- Your name and/or address at the time of your Covered Total Loss Claim, if different from your current name and/or address; and
- Sign and date this form.
- Mail this form via first-class mail or private courier at your own cost.

You can complete and submit a Blank Electronic Claim Form online at [www.UbillusPerryTotalLossClassAction.com](http://www.UbillusPerryTotalLossClassAction.com) or mail this Blank Paper Claim Form to the following address:

Ubillus Perry Total Loss Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173063  
Milwaukee, WI 53217

**Claim Forms must be submitted online by 11:59 p.m. ET on, or postmarked by, [Month 00, 2024].**

**UBILLUS/PERRY V. PROGRESSIVE SETTLEMENT BLANK PAPER CLAIM FORM**

Name (First and Last Name): \_\_\_\_\_

Name at the time of your Total Loss claim on a Progressive automobile insurance policy (*if different from your current name*): \_\_\_\_\_

Policy Number(s): \_\_\_\_\_

OR

Claim Number(s): \_\_\_\_\_

Mark only those that apply. I was not paid:

Sales Tax

Certificate of Title Fee

Vehicle Registration Transfer Fee

Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(city) (state) (zip)

(\_\_\_\_\_) - \_\_\_\_\_  
(phone) (email)

Address at the time of your Total Loss claim(s) if different than your current address:

\_\_\_\_\_  
\_\_\_\_\_  
(city) (state) (zip)

BY SIGNING BELOW, I CERTIFY THAT I MADE THE INSURANCE CLAIM(S) IDENTIFIED ABOVE OR I AM THE LEGALLY AUTHORIZED PERSONAL REPRESENTATIVE, GUARDIAN, OR TRUSTEE OF THE PERSON WHO MADE THE CLAIM(S). TO THE BEST OF MY KNOWLEDGE, THE INFORMATION ON THIS CLAIM FORM IS TRUE AND CORRECT. I UNDERSTAND PROGRESSIVE MAY AUDIT MY CLAIM.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (please print): \_\_\_\_\_

**This Claim Form must be submitted online by 11:59 p.m. ET on, or mailed to the above address postmarked by, [MONTH, 00, 2024]. Claim Forms that are not complete or submitted by this Claim Deadline, as determined by the Settlement Administrator, will not be considered for payment.**

# **EXHIBIT 8**

# CLAIM FORM

## INSTRUCTIONS

**You are encouraged to submit your Claim using the Pre-Filled Electronic Claim Form or detachable Pre-Filled Paper Claim Form, using the Unique ID that appears on the Postcard Notice or Email Notice sent to you. Doing so will allow for the most efficient and accurate processing of your Claim.**

**If you misplaced or discarded the Postcard Notice or Email Notice containing your Unique ID, contact the Settlement Administrator by calling 1-877-390-3159 or email [info@UbillusPerryTotalLossClassAction.com](mailto:info@UbillusPerryTotalLossClassAction.com) to obtain your Unique ID.**

**PLEASE NOTE: If you do not have the Unique ID, you must submit your Claim using this form by the Claim Deadline set forth below, even if you have requested it from the Settlement Administrator.**

To submit a claim, please complete the form below and provide:

- Your full name;
- Your Progressive Marathon Insurance Company or Progressive Michigan Insurance Company automobile insurance policy number or your claim number for your Covered Total Loss Claim(s);
- Whether you were not previously paid Sales Tax, a Certificate of Title Fee, or a Vehicle Registration Transfer Fee;
- If you had more than one Covered Total Loss Claim paid during the following class period, please include all claim numbers:
  - For Progressive Marathon Insurance Company: July 18, 2013, through [Month 00, 2024]
  - For Progressive Michigan Insurance Company: July 18, 2016, through [Month 00, 2024];
- Your current address;
- Your name and/or address at the time of your Covered Total Loss Claim, if different from your current name and/or address; and
- Electronically sign and date this form.

**Electronic Claim Forms must be submitted online by 11:59 p.m. ET on [Month 00, 2024].**



**UBILLUS/PERRY V. PROGRESSIVE SETTLEMENT BLANK ELECTRONIC CLAIM FORM**

Name (First and Last Name): \_\_\_\_\_

Name at the time of your Total Loss claim on a Progressive automobile insurance policy (*if different from your current name*): \_\_\_\_\_

Policy Number(s): \_\_\_\_\_

OR

Claim Number(s): \_\_\_\_\_

Mark only those that apply. I was not paid:

Sales Tax

Certificate of Title Fee

Vehicle Registration Transfer Fee

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(city) (state) (zip)

(\_\_\_\_\_) - \_\_\_\_\_  
(phone) (email)

Address at the time of your Total Loss claim(s) if different than your current address:

\_\_\_\_\_  
\_\_\_\_\_  
(city) (state) (zip)

BY SIGNING BELOW, I CERTIFY THAT I MADE THE INSURANCE CLAIM(S) IDENTIFIED ABOVE OR I AM THE LEGALLY AUTHORIZED PERSONAL REPRESENTATIVE, GUARDIAN, OR TRUSTEE OF THE PERSON WHO MADE THE CLAIM(S). TO THE BEST OF MY KNOWLEDGE, THE INFORMATION ON THIS CLAIM FORM IS TRUE AND CORRECT. I UNDERSTAND PROGRESSIVE MAY AUDIT MY CLAIM.

Electronic Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**This Electronic Claim Form must be submitted online by 11:59 p.m. ET on [MONTH, 00, 2024]. Claim Forms that are not complete or submitted by this Claim Deadline, as determined by the Settlement Administrator, will not be considered for payment.**

# **EXHIBIT 9**

# UBILLUS/PERRY V. PROGRESSIVE SETTLEMENT CLAIM FORM

Name & Address: [PREFILL]

UNIQUE ID: [PREFILL]

Date(s) of Loss: [PREFILL]; [PREFILL]; [PREFILL]	Mark only those that apply. I was not paid: Sales Tax <input type="checkbox"/> Certificate of Title Fee <input type="checkbox"/> Vehicle Registration Transfer Fee <input type="checkbox"/>
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ADDRESS (if different from above)

STREET ADDRESS:

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CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

CONTACT PHONE #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

**AFFIRMATION (required):** BY SIGNING BELOW, I CERTIFY THAT I MADE THE INSURANCE CLAIM(S) IDENTIFIED ABOVE OR I AM THE LEGALLY AUTHORIZED PERSONAL REPRESENTATIVE, GUARDIAN, OR TRUSTEE OF THE PERSON WHO MADE THE CLAIM(S), AND THAT, TO THE BEST OF MY KNOWLEDGE, THE INFORMATION ON THIS CLAIM FORM IS TRUE AND CORRECT. I UNDERSTAND PROGRESSIVE MAY AUDIT MY CLAIM.

*By typing your name below you agree that this constitutes your digital signature.*

SIGNATURE: \_\_\_\_\_ DATE: \_\_/\_\_/\_\_

This Claim Form must be submitted by **11:59 p.m. ET** on **[MONTH, 00, 2024]**. Claim Forms that are not complete or submitted by the deadline, as determined by the Settlement Administrator, will not be considered for payment.