

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

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

Plaintiffs,

v.

PROGRESSIVE MARATHON INSURANCE  
COMPANY,

Defendant.

CASE NO. 2019-741-CK  
HON. TIMOTHY P. CONNORS

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## ORDER GRANTING PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

At a session of said Court, held in the Ann Arbor,  
County of Washtenaw, State of Michigan on:  
Date: 1/6/23  
Present: Hon. Timothy Connors  
Circuit Court Judge

Before the Court is Plaintiff Gonzalo Ubillus's Motion for Class Certification, which Defendant Progressive Marathon Insurance Company opposes. The Court reviewed the briefing and evidence filed in connection with this Motion. The Court heard oral argument on the motion on December 14, 2022, at which time it admitted into evidence the PowerPoint presentations provided to the Court by the parties.

For the reasons stated on the record, the Court is of the opinion that Plaintiff's Motion for Class Certification should be granted, with the class definition modified as set forth below to pursue the claims as set forth below.

In support of its Order, the Court makes the following findings:

1. Plaintiff Gonzalo Ubillus is a member of the Class as set forth below.
2. The Class as set forth below is adequately defined so that its potential members can be identified.
3. Under MCR 3.501(A)(1)(a), the members of the Class as set forth below are so numerous that joinder of all members is impracticable.
4. Under MCR 3.501(A)(1)(b), there are questions of law or fact common to the members of the Class set forth below that predominate over questions affecting only individual members.
5. Under MCR 3.501(A)(1)(c), the claims of Plaintiff Gonzalo Ubillus are typical of the Claims of the Class set forth below.

6. Under MCR 3.501(A)(1)(d), Plaintiff Gonzalo Ubillus and the Class Counsel appointed below will fairly and adequately assert and protect the interests of the Class set forth below.

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

The Court, therefore, **ORDERS** as follows:

1. The Court certifies the following Class:

All persons who: (a) are or were covered by a Progressive Marathon Insurance Company (“Progressive”) personal automobile insurance policy issued in Michigan; (b) made a claim under the Collision or Comprehensive coverage of that policy for damage or loss to a covered vehicle which Progressive accepted and treated as a total loss claim; and (c) Progressive paid the claim on a cash basis without including sales tax, a certificate of title fee, a vehicle registration transfer fee and/or dealer documentary preparation fees as part of the cash payment, (d) from July 18, 2013, through the date of this Order (the “Class Period”).

Excluded from this Class are defense counsel and their immediate families, Plaintiff’s counsel and their immediate families, and all judges who may consider this case and their immediate families.

2. The Class is certified to pursue: (a) declaratory relief and breach of contract damages based on Progressive’s failure to pay Sales Tax and Regulatory Fees (certificate of title fee and vehicle registration transfer fee); and (b) declaratory relief that Progressive had the obligation to pay Class members documentary preparation fees if they were reasonably likely to incur them as of the dates of their losses and further necessary or proper relief pursuant to MCR 2.605(F). The Class is not certified to pursue claims that they were in fact reasonably likely to have incurred documentary preparation fees or to pursue damages based on Progressive’s refusal to pay them.

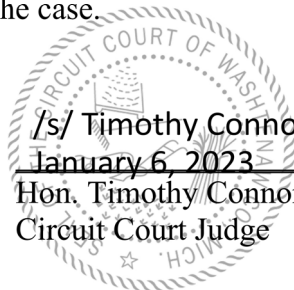
3. Plaintiff Gonzalo Ubillus is appointed Class Representative.

4. Roger L. Mandel and Scott R. Jeeves of Jeeves Mandel Law Group, P.C., Craig E. Rothburd of Craig E. Rothburd, P.A., Michael L. Pitt of Pitt, McGhehee, Palmer, Bonanni & Rivers, P.C., and Casim Adam Neff of Neff Insurance Law, PLLC are appointed as Class Counsel.

5. The Parties shall confer and attempt to agree upon a plan for giving notice of the certification to the Class under MCR 3.501(C). If the parties are unable to agree upon a plan of notice, they shall present the Court with one filing setting forth the points as to which they agree and those as to which they disagree with each party explaining its position with respect to the points of disagreement. A hearing for entry of order regarding Class notice is hereby set for 1:00 P.M. on February 9, 2023.

This is not a final order and does not close the case.

**IT IS SO ORDERED** on January 6, 2023.

The seal of the Circuit Court of Washington is circular with a scalloped border. It features a central emblem with a book and a scale, surrounded by the text "CIRCUIT COURT OF WASHINGTON" and "JANUARY 1889".  
/s/ Timothy Connors  
~~January 6, 2023~~  
\_\_\_\_\_  
Hon. Timothy Connors  
Circuit Court Judge

Approved as to form:

By: /s/ Michael L. Pitt  
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Dated: January 5, 2023

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