

NOTICE OF PENDENCY OF CLASS ACTION

If your vehicle was adjusted to be a total loss by Progressive, Progressive may have applied deductions referred to as Projected Sold Adjustments to your total loss claim, and your rights may be affected by a class action lawsuit pending in the Southern District of New York.

A court authorized this notice. This is not a solicitation from a lawyer. You are not being sued.

This notice explains important rights you may have. Please read it carefully.

- On March 16, 2023, a lawsuit styled *Dominick Volino, et al. v. Progressive Casualty Ins. Co., et al.*, Case No. 1:21-cv-06243-LGS (the “Class Action”), which is pending in the Southern District of New York (the “Court”), was certified as a class action.
- This notice explains what the class action is about, the Classes that were certified, and Class members’ legal rights and options.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

Remain a Member of the Certified Classes	Do nothing. Stay in the lawsuit. Await the outcome. If you wish to remain a member of the certified Classes, you are not required to do anything at this time. By doing nothing, you are choosing to stay in the Classes. You will be permitted to share in any recovery that may result from this class action, but you will give up your rights to sue Defendants in a separate lawsuit for any claims made in this action.
Ask to be Excluded from the Certified Classes	Get out of this lawsuit. Keep your rights to sue Defendants in a separate lawsuit. If you do not wish to participate in the class action, you must send a letter requesting to be excluded postmarked no later than September 11, 2023 . If you exclude yourself from this lawsuit, you will not be entitled to any recovery that may result from this class action, but you will be free to pursue any claim you may have against Defendants on your own or as part of a different lawsuit (but you should consult with a lawyer to determine whether those claims are timely).

- If you do nothing and if money or benefits are obtained from Progressive, you will receive a notice describing how to receive a share of any recovery in which you may be eligible to participate. However, there is no guarantee that any money or benefits will be obtained.
- To be excluded, you must act before **September 11, 2023**.
- **Any questions? Read on or call 1 855-903-0774.**

Questions? Call 1-855-903-0774 or visit www.NYTotalLossClaim.com.

BASIC INFORMATION

1. What is a class action and who is involved?

In a class action, one or more people called “Class Representatives” file a lawsuit on behalf of other people who have similar claims. This avoids the necessity for a large number of people to file similar individual lawsuits and enables the court system to resolve similar claims in an efficient and economical way.

2. What is this Class Action against Progressive about?

This Class Action alleges that Progressive Advanced Ins. Co., Progressive Specialty Ins. Co., Progressive Max Ins. Co., and Progressive Casualty Ins. Co. (collectively referred to as “Progressive” or “Defendants”) systematically paid their insureds less than the actual cash value of their vehicles for total loss claims, in breach of Progressive’s policies. Plaintiffs assert that Progressive did this by basing the compensation for insureds’ total loss claims on valuation reports that applied Projected Sold Adjustments, which Plaintiffs allege are improper. In addition to their breach of contract claim, Plaintiffs also assert claims on behalf of insureds and third-party claimants alleging that application of a Projected Sold Adjustment in determining actual cash value is a deceptive practice in violation of New York General Business Law (“GBL”) § 349 and seek a declaratory judgment that Progressive’s application of Projective Sold Adjustments violates Regulation 64.

3. Why is this notice being provided?

This notice is for individuals who, according to Progressive’s records, during the time period of July 28, 2015 to March 16, 2023 were a New York resident and policyholder with Progressive, or, during the time period of July 28, 2018 were a New York resident who made a claim on another person’s policy with Progressive, and (a) received compensation from Progressive for the total loss of their vehicle, (b) Progressive based the compensation on a valuation report prepared by Mitchell International, Inc. and (c) that valuation report applied Projected Sold Adjustments to one or more of the comparable vehicles used to determine actual cash value.

This notice explains that the Court has allowed, or “certified,” the lawsuit described above as a class action and describes Class members’ legal rights and options in the lawsuit.

THE CLAIMS IN THE LAWSUIT

4. What has happened in the Class Action so far?

On July 27, 2021, the first of two related class actions was filed against Progressive in United States District Court for the Southern District of New York. On April 8, 2022, the related class actions were consolidated. Plaintiffs filed a Consolidated Amended Class Action Complaint on April 15, 2022, asserting claims for breach of contract and violation of GBL § 349, and seeking a declaratory judgment that Progressive’s application of Projective Sold Adjustments violates Regulation 64. Defendants sought to dismiss the Class Action, but the Court denied Defendants’ motion and allowed the Class Action to proceed. On November 17, 2022, Plaintiffs filed a motion for class certification. After briefing on Plaintiffs’ motion for class certification, the Court granted the motion on March 16, 2023.

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5. The Court's Class Certification Order.

The Court's March 16, 2023 order certified a Breach of Contract Class and a GBL § 349 Class. The Breach of Contract Class includes "[a]ll persons who made a first-party claim (which was assigned a Progressive Company Code [that corresponds to one of the Defendants]) on a policy of insurance issued by any Progressive Group entity to a New York resident who, from July 28, 2015 through the date an order granting class certification is entered, received compensation for the total loss of a covered vehicle, where that compensation was based on an Instant Report prepared by [non-party Mitchell International, Inc. ("Mitchell")] and the actual cash value was decreased based upon Projected Sold Adjustments to the comparable vehicles used to determine actual cash value. " The GBL § 349 Class includes "[a]ll persons who made a claim (which was assigned a Progressive Company Code [that corresponds to one of the Defendants]) on a policy of insurance issued by any Progressive Group entity to a New York resident who, from July 28, 2018 through the date an order granting class certification is entered, received compensation for the total loss of a covered vehicle, where that compensation was based on an Instant Report prepared by Mitchell and the actual cash value was decreased based upon Projected Sold Adjustments to the comparable vehicles used to determine actual cash value." The Court also certified four subclasses of each class, one for each Defendant. The Court appointed Plaintiffs Lukasik, Lippa, Plotts, Goodier, Costa, and Verardo as the Class Representatives for the Classes and Subclasses. The Court's order can be viewed at www.NYTotalLossClaim.com.

6. What type of recovery are the Class Representatives seeking?

The Class Representatives seek to recover money to compensate members of the Classes for the alleged underpayment of their total loss claims, as well as pre- and post-judgment interest. The Class Representatives are only challenging application of the "projected sold adjustment" as part of the valuation process. The Class Representatives are not contesting or challenging any other aspect of the valuation process. If you wish to challenge an aspect of the valuation process other than application of a "projected sold adjustment," you should opt out of the Classes and separately file your own claim.

7. Is there money available now?

No money or benefits are available now because the Court has not yet decided whether Defendants did anything wrong, and the two sides have not settled the case. There is no guarantee that any money or benefits will be obtained. If they are, you will receive a notice describing how to receive a share of any recovery in which you may be eligible to participate.

CLASS MEMBERS RIGHTS AND OPTIONS

If you are a Member of one of the Certified Classes, you have to decide whether to remain a Class Member or ask to be excluded by **September 11, 2023**.

8. What happens if I am a Class Member and I do nothing?

If you wish to remain a member of the certified Classes, you are not required to do anything at this time. By remaining a class member, you are agreeing that the claims against Progressive will be determined on a classwide basis. As a member of the Classes, you will be bound by the outcome of this lawsuit. If the lawsuit results in a judgment favorable to the Classes, you would be entitled to share in the benefits of that judgment. If the outcome is favorable to Progressive, your rights will be determined by the decision rendered in this lawsuit, and you will receive nothing.

Questions? Call 1-855-903-0774 or visit www.NYTotalLossClaim.com.

9. If I am a Class Member, how do I ask the Court to exclude me?

If you do not wish to participate in this Class Action, you can request exclusion from the Classes. If you choose to be excluded, you will (1) not share in the benefits, if any, that members of the Classes may be entitled to as a result of trial of this lawsuit; and (2) not be bound by any decision in this lawsuit favorable to Progressive. If you request exclusion, you will have the right to pursue individually, at your own expense, any claim you may have against Progressive. To request exclusion, you must send a written and signed notification entitled “Request for Exclusion” to the following:

Volino v. Progressive Notice Administrator
PO Box 6366
Portland, OR 97228-6366

To be valid, your “Request for Exclusion” must be postmarked by **September 11, 2023**, and must include your name, current address, telephone number, and your signature. If your Request for Exclusion is not postmarked by **September 11, 2023**, it will be invalid and you will be included as a member of the Classes automatically, and be bound by any final judgment.

THE LAWYERS REPRESENTING ME

10. Do Class Members have a lawyer in this case?

Yes. The Court appointed the law firm of Carney Bates & Pulliam PLLC (“Carney Bates”), referred to as Class Counsel, to represent you and other members of the certified Classes. If you have any questions for Class Counsel, you may direct those to Carney Bates at 519 W. 7th St., Little Rock, AR, 72201, or by visiting www.cbplaw.com.

11. If I am a Class Member, should I get my own lawyer?

You do not need to hire your own lawyer. However, you are free to hire your own lawyer, at your own expense, and enter an appearance in this action through your lawyer if you so desire.

12. How will the lawyers get paid?

If Class Counsel get money or benefits for the Class, they may ask the Court for fees and expenses. If the Court grants Class Counsel’s request, Class Counsel’s fees and expenses would either be deducted from any money obtained for the Class or paid separately by Progressive.

OTHER PROCEEDINGS

13. Have any other proceedings been scheduled?

No hearing or other proceeding has been scheduled at this time.

14. Do Class Members have to attend any proceedings?

If there are any court hearings, Class Members do not need to attend them. The Class Representatives and Class Counsel will present the case for the Classes. You or your own lawyer are welcome to come at your own expense.

Questions? Call 1-855-903-0774 or visit www.NYTotalLossClaim.com.

GETTING MORE INFORMATION

15. Are more details available?

This notice contains only a summary of the Class Action and proceedings to date. Complete copies of public pleadings, Court rulings and other filings are available for review and copying at the office of the Clerk of the Court for the United States District Court for the Southern District of New York, 500 Pearl St, New York, NY 10007, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays. Additional information is also available at the website maintained for this Class Action, www.NYTotalLossClaim.com, or by contacting Class Counsel at the address provided above.

PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE, DEFENDANTS, OR DEFENDANTS' COUNSEL TO ASK QUESTIONS ABOUT THIS CLASS ACTION OR THIS NOTICE. THEY CANNOT ANSWER ANY QUESTIONS OR DISCUSS THE CLASS ACTION.