

Notice of Class Action Settlement

Volino, et al. v. Progressive Cas. Ins. Co. et al.,
Case No. 1:21-cv-06243-LGS

Authorized by the U.S. District Court for the Southern District of New York

You have received this notice because your vehicle was adjusted to be a total loss by Progressive, Progressive may have undervalued your claim, and you may be entitled to a payment from a proposed Settlement in the class action lawsuit *Volino, et al. v. Progressive Cas. Ins. Co., et al.*

Your legal rights and options in this Settlement:

**If you wish to
receive money
from the
Settlement, you
do not need to
do anything.**

**If you remain a
Settlement Class
Member, you may
file an objection if
you do not like
any part of the
Settlement.**

**If you DO NOT
wish to receive
money from the
Settlement, you
may exclude
yourself from the
Settlement.**

Important things to know:

- Subject to court approval, the Settlement will provide \$48,000,000 to settle this lawsuit, approximately \$31,200,000 of which will be distributed to Settlement Class Members. The remainder will be used to pay certain fees and expenses. If you take no action, you will be part of the Settlement, you will receive a settlement payment, and your rights will be affected.
- After payment of attorney's fees, litigation expenses, settlement administration expenses, and any service awards, it is estimated that each Settlement Class Member who does not opt out will receive a check for, on average, \$335, which will be delivered to the Settlement Class Member's address on file with Progressive. There may be a benefit to choosing to receive your payment through an electronic form, such as PayPal, Venmo, or direct deposit to your bank account. If you would like to receive your payment through an electronic form, or if you would like to request a change of address, you will need to visit the Settlement Website, www.NYTotalLossClaim.com, and follow the instructions for doing so.
- If you wish to exclude yourself from the Settlement, you must send a letter requesting exclusion postmarked by February 1, 2025.

- Any objection to the Settlement must also be postmarked by February 1, 2025.
- You can learn more about these rights below, by visiting the Settlement Website, www.NYTotalLossClaim.com, or by calling 1-855-903-0774.

Why did I get this notice?

This notice is to tell you about a proposed Settlement in the class action lawsuit *Volino, et al. v. Progressive Cas. Ins. Co., et al.* (the “Class Action”), brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively referred to as “Progressive” or “Defendants”) for systematically paying their insureds less than the actual cash value of their vehicles for total loss claims in breach of Progressive’s policies. **You received this notice because you are a member of the group of people affected, called the “Settlement Classes.”** This notice gives you information about the Class Action, the Settlement and your rights and options.

What do I do next?

This notice is an important legal document. Please read it carefully to understand the Settlement and to determine if you are a member of the Settlement Classes. If you have questions or need assistance, please go to www.NYTotalLossClaim.com or call 1-855-903-0774.

What is the deadline to request exclusion from the Settlement?

The deadline to ask to be excluded from the Settlement is February 1, 2025.

Who are included in the Settlement Classes?

The Settlement Classes are:

First Party Class: All persons who made a first-party claim on a policy of insurance issued by any Progressive Group entity to a New York resident who, from July 28, 2015 through August 20, 2024, received compensation from one of the Defendants for the total loss of a covered vehicle, where that compensation was based on an Instant Report prepared by Mitchell International, Inc. and the actual cash value was decreased based upon Projected Sold Adjustments to the comparable vehicles used to determine actual cash value.

Third Party Class: All persons who made a third-party claim on a policy of

insurance issued by any Progressive Group entity to a New York resident who, from July 28, 2018, through August 20, 2024, received compensation from one of the Defendants 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.

Do I have a lawyer representing my interests in the Settlement?

Yes, the Court appointed the following law firms to represent you and other Settlement Class Members: Carney Bates & Pulliam, PLLC; Jacobson Phillips PLLC; Normand PLLC; Edelsberg Law, P.A.; Shamis & Gentile; and Bailey Glasser LLP (collectively referred to as “Class Counsel”).

The Court also appointed Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa as the Settlement Class Representatives.

Class Counsel asked the Court for attorneys’ fees not to exceed one-third of the Settlement Fund, plus reimbursement of reasonable litigation expenses up to \$460,000, and service awards not to exceed \$15,000 to each of the seven Plaintiffs for serving as the Settlement Class Representatives. The motion for fees, expenses and service awards was filed November 6, 2024, and is available on the Settlement Website, www.NYTotalLossClaim.com.

What are all my options under the Settlement?

You have three options:

- (1) **Remain a member of one of the Settlement Classes. To do so, you are not required to do anything.** The Settlement provides that, in exchange for a dismissal of the Class Action and release of claims against Defendants and the Released Parties (as defined in the Settlement Agreement), Defendants and other Released Parties will create a fund of \$48,000,000 (the “Settlement Fund”). Each Settlement Class Member who does not opt out will receive a pro rata distribution under the Settlement, after the payment of certain expenses, including attorney’s fees, litigation expenses, settlement administration expenses, and service awards. It is estimated that after payment of such fees and expenses, individual Settlement Class Members will receive a check for, on average, approximately \$335. The individual payments will be mailed to the Settlement Class Member’s address on file with Progressive if you do not choose to receive your payment through an electronic form, such as PayPal,

Venmo, or direct deposit to your bank account. There may be benefits to choosing electronic payment. For information on how to do so, or if you would like to request a change of address, visit the Settlement Website, www.NYTotalLossClaim.com, and follow the instructions for doing so.

- (2) **If you DO NOT wish to participate in the Settlement, you can request exclusion from the Settlement Classes.** To exclude yourself from the Settlement, you must send a written “Request for Exclusion” to the Settlement Administrator at the following address: *Volino v. Progressive* Settlement Administrator, P.O. Box 6366, Portland, OR 97228-6366. An “Opt Out” form will be available at the Settlement Website, but you need not use the form to submit a Request for Exclusion. To be valid, your Request for Exclusion must be postmarked by **February 1, 2025**, and must include the name and number of the case; must clearly state your desire to be excluded from the Settlement Classes, and include your name, your current address, your telephone number, and your signature. If your Request for Exclusion is not postmarked by February 1, 2025, it will be invalid and you will be included as a member of the Settlement Classes automatically and be bound by the terms of the Settlement and the Final Approval Order and Judgment even if you have previously initiated or subsequently initiate individual litigation or any other proceedings against Defendants.
- (3) **If you do not exclude yourself, you can object to the Settlement if you don’t like any part of it.** You can give reasons why you think the Court should not approve the Settlement, the request for attorney’s fees and expenses, or the request for Class Representatives’ service awards. Objections must be submitted in writing to *Volino v. Progressive* Settlement Administrator, P.O. Box 6366, Portland, OR 97228-6366, be postmarked no later than **February 1, 2025**, and contain all of the following information: (i) a caption or title that identifies it as “Objection to Class Settlement in *Volino v. Progressive*, Case No. 1:21-Civ.-06243-LGS, (ii) the objector’s full name, address, and telephone number; (iii) if applicable, the name and address of any person claiming to be legally entitled to object on behalf of a Settlement Class Member and the basis of such legal entitlement; (iv) all grounds for the objection, including all evidence, citations to legal authority, and legal argument; (v) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the “Objecting Attorneys”); and (vi) the objector’s handwritten or electronically imaged written signature. If you wish to appear at the Court’s Final Fairness Hearing (see below), either personally or through counsel who files an appearance with the Court in accordance with the Local Rules, you must write

“Intention to Appear” on your written objection letter. If your objection does not contain all of this information, is mailed to the incorrect address, or is postmarked after February 1, 2025, your objection will be considered invalid and you will be deemed to have waived your objection.

When and where will the Court decide whether to approve the Settlement?

The Court will hold a **Final Fairness Hearing** on March 5, 2025 at 12:15 PM EST at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, Courtroom 1106. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide Class Counsel’s application for attorneys’ fees and expenses and the Settlement Class Representatives’ application for service awards. We do not know how long these decisions will take. The Court may change the date or time of the Final Fairness Hearing without further notice, so please check the Settlement Website for any changes.

Do I need to attend the Final Fairness Hearing?

Settlement Class Members are not required to attend the Final Fairness Hearing, but you may attend the hearing if you so wish. Class Counsel will answer any questions the Court may have at the Final Fairness Hearing. However, you may come at your own expense if you would like to attend the hearing. You may also pay your own lawyer to attend, but it is not necessary.

If you send a written objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection on time and followed the instructions above, the Court will consider it. However, if you want to speak about your objection, you may speak at the hearing but only if you have clearly written “Intention to Appear” on your written objection letter.

How can I get more information?

This notice summarizes the Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at the Settlement Website, www.NYTotalLossClaim.com; or contact Class Counsel by mail at Hank Bates, Carney Bates & Pulliam, PLLC, One Allied Drive, Suite 1400, Little Rock, AR 72202. You can also call the Settlement Administrator toll free at 1-855-903-0774 with your questions.

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