

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF CAMERON R. AZARI, ESQ. ON IMPLEMENTATION AND
ADEQUACY OF SETTLEMENT NOTICE PLAN**

I, Cameron R. Azari, Esq. declare as follows:

1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am a nationally recognized expert in the field of legal notice, and I have served as an expert in hundreds of federal and state cases involving class action notice plans.
3. I am a Senior Vice President of Epiq Class Action and Claims Solutions, Inc. (“Epiq”) and the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans. Hilsoft Notifications is a business unit of Epiq. References to Epiq in this declaration include Hilsoft Notifications.

DECLARATION OF CAMERON R. AZARI, ESQ. ON IMPLEMENTATION AND
ADEQUACY OF SETTLEMENT NOTICE PLAN

4. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq.

OVERVIEW

5. This declaration describes the successful implementation of the Settlement Notice Plan (“Notice Plan”) for *Volino, et al., v. Progressive Casualty Insurance Company, et al.*, Case No. 21-cv-6243-LGS and *Verardo et al. v. Progressive Casualty Insurance Company, et al.*, Case No. 21-cv-1714-LGS, both in the in the United States District Court for the Southern District of New York. I previously executed my *Declaration of Cameron R. Azari, Esq., on Settlement Notice Plan*, on June 27, 2024, (“Notice Plan Declaration”), which described the Notice Plan, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s curriculum vitae. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice programs. Subsequently, I executed my *Declaration of Cameron R. Azari, Esq., on Settlement Notice Plan*, on August 19, 2024, (“Supplemental Notice Plan Declaration”), which described the details and requirements for a Summary Email Notice.

NOTICE PLAN

6. On August 20, 2024, the Court approved the Notice Plan and appointed Epiq as the Settlement Administrator in the *Order Granting Preliminary Approval of Class Action Settlement* (“Preliminary Approval Order”).¹ In the Preliminary Approval Order, the Court approved and certified, for settlement purposes, the following “Settlement Classes”:

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 the date of Preliminary Approval, 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

¹ Epiq handled notice administration, including sending individual notice, for the class certification stage of the case.

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 the date of Preliminary Approval, 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.

Excluded from the Settlement Classes are (1) any judge presiding over this Action and members of their families; (2) Defendants, their subsidiaries, parent companies, successors, predecessors, and any entity in which any Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees.

7. Rule 23 of the Federal Rules of Civil Procedure directs that the best notice practicable under the circumstances must include “individual notice to all members who can be identified through reasonable effort.”² The Notice Plan satisfied this requirement.

8. The Notice Plan as designed and implemented reached the greatest practicable number of Settlement Class Members. The Notice Plan individual notice efforts reached approximately 93% of the identified Settlement Class Members thus far. The reach was further enhanced by a settlement website providing detailed information about the case, the settlement, and key documents. In my experience, the Notice Plan was consistent with other court-approved notice programs, and was designed to meet due process requirements. In my opinion, providing notice via individual notice to reach the identified Settlement Class Members satisfied the requirements of due process, including its “desire to actually inform” requirement.³

² FRCP 23(c)(2)(B)

³ “But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950).

9. After the Court’s Preliminary Approval Order was entered, Epiq implemented the Notice Plan. This declaration details the notice activities undertaken and explains how and why the Notice Plan was comprehensive and well-suited to the Settlement Classes. This declaration also discusses the administration activity to date. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq.

NOTICE PLAN

Individual Notice

10. On September 18, 2024, Epiq received one data file with 93,551 records for identified Settlement Class Members, including the last known names, email addresses, if any, and physical addresses. Epiq deduplicated and rolled-up the records and loaded the unique, identified Settlement Class Member records into its database. These efforts resulted in 82,276 unique, identified Settlement Class Member records. Of these records 82,233 had an available mailing or email address and were sent notice. 43 records did not include a valid mailing or email address.

11. An Email Notice was sent to all identified Settlement Class Members with a valid email address. A Postcard Notice was sent via United States Postal Service (“USPS”) to all identified Settlement Class Members with an available mailing address for whom a valid email address was not available or the Email Notice was undeliverable after several attempts. The Email Notice and Postcard Notice clearly described the case and the legal rights of the Settlement Class Members. The individual notices also directed the recipients to a dedicated settlement website where they could access additional information.

Individual Notice – Email Notice

12. On September 30, 2024, Epiq sent 71,112 Email Notices to 69,946 identified Settlement Class Members with a valid email address (some Settlement Class Members had multiple email addresses and were sent an Email Notice to each unique email address). The Email

Notice was created using an embedded html text format. This format provided easy-to-read text without graphics, tables, images and other elements that would have increased the likelihood that the message would have been blocked by Internet Service Providers (ISPs) and/or SPAM filters for this type of communication. Each Email Notice was transmitted with a unique message identifier. If the receiving email server could not deliver the message, a “bounce code” was returned along with the unique message identifier. For any Email Notice for which a bounce code was received indicating that the message was undeliverable, at least two additional attempts were made to deliver the Notice by email.

13. The Email Notice included an embedded link to the settlement website. By clicking the link, recipients were able to easily access the Long Form Notice, and other information about the case. The Email Notice is attached hereto as **Exhibit 1**.

Individual Notice – Direct Mail

14. Commencing on October 4, 2024, Epiq sent 12,287 Postcard Notices to all identified Settlement Class Members with an available mailing address for whom a valid email address was not available. The Postcard Notice was sent via USPS first class mail. Prior to mailing, all mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the USPS.⁴ In addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

15. Postcard Notices returned as undeliverable are re-mailed to any new address available through USPS information, for example, to the address provided by the USPS on

⁴ The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and known address.

returned pieces for which the automatic forwarding order has expired, or to better addresses that were found using a third-party lookup service. This process is commonly referred to as “skip-tracing.” Upon successfully locating better addresses, Postcard Notices are promptly re-mailed. On October 31, 2024, Epiq sent 4,963 Postcard Notices to all identified Settlement Class Members with an available mailing address for whom the Email Notice was undeliverable after several attempts. The Postcard Notice is attached hereto as **Exhibit 2**.

16. Additionally, a Long Form Notice was mailed to all persons who requested one via the toll-free telephone number or by other means. As of October 28, 2024, Epiq mailed 61 Long Form Notices as a result of such requests. The Long Form Notice is attached hereto as **Exhibit 3**.

Notice Results

17. As of October 28, 2024, an Email Notice and/or Postcard Notice was delivered to 76,556 of the 82,276 unique, identified Settlement Class Members. This means the individual notice efforts has thus far reached approximately 93% of the identified Settlement Class Members. This reach will be increased by the 4,963 Postcard Notices recently mailed for the Notices that were previously undeliverable, so that the final reach is anticipated to exceed 95%. On or before December 3, 2024, I will provide a supplemental declaration on the notice results.

Settlement Website, Toll-free Telephone Number, and Postal Mailing Address

18. The existing informational website (www.NYTotalLossClaim.com) that was established for the class certification notice efforts was updated with additional information regarding the Settlement. Settlement Class Members were and are able to obtain detailed information about the case and review key documents, including the Long Form Notice, Settlement Agreement, and the Preliminary Approval Order, and will include other documents that will be filed including Class Counsel’s application for attorneys’ fees, litigation expenses, and service awards. In addition, the settlement website includes updated relevant dates, answers to frequently asked questions (“FAQs”), information regarding Settlement Class Members’ rights, instructions for how

Settlement Class Members may opt-out (request exclusion) from or object to the Settlement, contact information for the Settlement Administrator, and how to obtain other case-related information. The settlement website address was displayed prominently on all Notice documents. As of October 28, 2024, there have been 4,677 unique visitor sessions to the settlement website, and 10,467 web pages have been presented.

19. The existing toll-free telephone number (1-855-903-0774) that was established for the class certification notice efforts was updated with additional information regarding the Settlement. Callers are able to hear an introductory message, have the option to learn more about the Settlement in the form of recorded answers to FAQs, and request that a Long Form Notice be mailed to them. The automated telephone system is available 24 hours per day, 7 days per week. The toll-free telephone number was prominently displayed on all Notice documents. As of October 28, 2024, there have been 548 calls to the toll-free telephone number representing 1,304 minutes of use.

20. The existing post office box that was established for the class certification notice efforts for correspondence about the case continues to be available, allowing Settlement Class Members to contact the Settlement Administrator by mail with any specific requests or questions.

Request for Exclusion and Objections

21. The deadline to request exclusion from the Settlement or to object to the Settlement is November 19, 2024. As of October 28, 2024, Epiq has received one request for exclusion. As of October 28, 2024, Epiq is not aware of any objections to the Settlement. On or before December 3, 2024 I will provide a supplemental declaration regarding any additional requests for exclusion and objections.

CONCLUSION

22. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by federal and local rules and statutes,

and further by case law pertaining to notice. This framework directs that the notice plan be optimized to reach the class and, that the notice or notice plan itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements were met in this case.

23. The Notice Plan included individual, direct notice to all Settlement Class Members who could be identified with reasonable effort. With the address updating protocols that were employed, the Notice Plan individual notice efforts thus far have reached approximately 93% of the identified Settlement Class Members. The settlement website also expanded the reach of the notice further. In 2010, the Federal Judicial Center issued a Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide. This Guide states that, “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%.” Here, we have developed and implemented a Notice Plan that readily achieved a reach at the high end of that standard.

24. The Notice Plan provided for the best notice practicable under the circumstances of this case, conformed to all aspects of Rule 23 regarding notice, and comported with the guidance for effective notice set out in the Manual for Complex Litigation, Fourth.

25. The Notice Program schedule affords sufficient time to provide full and proper notice to Settlement Class Members before the opt-out and objection deadlines.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed on November 1, 2024, at Beaverton, Oregon.



Cameron R. Azari

DECLARATION OF CAMERON R. AZARI, ESQ. ON IMPLEMENTATION AND
ADEQUACY OF SETTLEMENT NOTICE PLAN

Exhibit 1

From: noreply_NYTotalLossClaim <noreply@NYTotalLossClaim.com>
To: [REDACTED]
Subject: NOTICE OF CLASS ACTION SETTLEMENT

[Click here](#) to view this message in a browser window.

NOTICE OF CLASS ACTION SETTLEMENT: 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. In. Co. et al.*, Case No. 1:21-cv-06243-LGS, 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.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
Remain a Member of the Settlement Classes and Receive money from the Settlement	<p>If you wish to remain a member of the Settlement Classes, you are not required to do anything. If you take no action, you will be part of the Settlement. You will also be bound by any judgment approving or disapproving the Settlement. After payment of certain fees and expenses, it is estimated that your payment will be [REDACTED], which will be mailed to [REDACTED] 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.</p>
Ask to be Excluded from the Settlement	<p>If you do not wish to participate in the Settlement, you must send a letter requesting to be excluded, postmarked no later than November 19, 2024. For details about what this letter must include, visit the Settlement Website, www.NYTotalLossClaim.com. If you exclude yourself from this lawsuit, you will not be entitled to a Settlement payment, 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).</p>

<p>If you remain a Settlement Class Member, you can object if you don't like any part it</p>	<p>If you do not exclude yourself from the Settlement, you can object to the Settlement if you don't like any part of it. If you object, 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 and postmarked no later than November 19, 2024. For details about what must be included in an objection, visit the Settlement Website, www.NYTotalLossClaim.com.</p>
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What is this Class Action about? The Class Action alleges that Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively referred to as "Progressive") systematically paid their insureds less than the actual cash value of their total loss vehicles.

Why did I get this notice? You received this notice because Progressive's records indicate you are a member of one of the following Settlement Classes: 1) **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. 2) **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. This notice gives you information about the Class Action, the Settlement, and your rights and options.

What does the Settlement Provide? Subject to court approval, the Settlement resolves all claims brought against Progressive in exchange for a cash Settlement Fund of \$48,000,000, approximately \$31,200,000 of which will be distributed to Settlement Class Members. The remainder will be used to pay attorneys' fees, litigation expenses, settlement administration expenses, and service awards.

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 will ask 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 will be filed by November 4, 2024, and subsequently made available on the Settlement Website, www.NYTotalLossClaim.com.

How can I get more information? This notice only summarizes the Settlement. The Settlement Agreement, the Court's Preliminary Approval Order, and other important filings are available for review at the Settlement

Website, www.NYTotalLossClaim.com. You can also call the Settlement Administrator toll free at 1-855-903-0774 or contact Class Counsel at www.cbplaw.com with your questions.

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.

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Copyright © 2024 Volino v Progressive
Our address is P.O. Box 6366, Portland, OR 97228-6366

If you do not wish to receive future email, [click here](#).
(You can also send your request to **Customer Care** at the street address above.)

Exhibit 2

Volino et al. v. Progressive
Casualty Ins. Co. et al.
c/o Epiq
P.O. Box 6366
Portland, OR 97228-6366

PRESORTED
FIRST-CLASS MAIL
AUTO
U.S. POSTAGE
PAID
PORTLAND, OR
PERMIT NO. 2882

**COURT ORDERED
NOTICE OF CLASS
ACTION SETTLEMENT**

Volino et al. v. Progressive
Casualty Ins. Co. et al.,
Case 1:21-cv-06243-LGS

Opt Out Deadline:
November 19, 2024

This Notice is to inform you of a
Class Action Settlement and to advise
you of your rights. The Court's order,
including the full definitions of the
Settlement Classes, can be viewed at
www.NYTotalLossClaim.com.



What Does the Settlement Provide? Subject to court approval, the Settlement in *Volino, et al. v. Progressive Cas. Ins. Co., et al.* (the “Class Action”) resolves all claims brought against Progressive Advanced Ins. Co., Progressive Specialty Ins. Co., Progressive Max Ins. Co., and Progressive Casualty Ins. Co. (collectively “Progressive”) for systematically paying their insureds less than the actual cash value of their total loss vehicles in exchange for a cash Settlement Fund of \$48,000,000.

What are My Options? As a potential Settlement Class Member, you have three choices.

1) **If you wish to receive money from the Settlement, you do not need to do anything.** Upon final approval of the Settlement, you will automatically receive a check payment, currently estimated at [REDACTED]. However, there may be benefits to choosing to receive payment electronically. For more information, or to update your address, visit the website below. You will also be bound by any judgment approving or disapproving the Settlement. 2) **If you do not wish to participate in the Settlement, you can request exclusion from the Settlement.** If you choose to be excluded, you will not share in the Settlement proceeds, you will not be bound by any orders or judgments in this case, and you will have the right to pursue individually, at your own expense, any claim you may have against Progressive. To be valid, your exclusion must be postmarked by November 19, 2024. 3) **If you do not request exclusion from the Settlement, you can object to the Settlement if you do not like any part of it.** To do so, you must file and serve a written objection by November 19, 2024. Visit the website below for more information.

Who Represents Me? The Court has appointed Carney Bates & Pulliam, PLLC; Jacobson Phillips PLLC; Normand PLLC; Edelsberg Law, P.A.; Shamis & Gentile; and Bailey Glasser LLP to serve as Class Counsel. You do not have to pay Class Counsel to participate. Instead, they will ask the Court for an award of fees and litigation expenses from the Settlement Fund. You may hire your own lawyer, at your own expense, to appear in Court for you, but you do not have to.

How Do I Get More Information? For more information, you may go to www.NYTotalLossClaim.com, or you may contact the Administrator at 1-855-903-0774 or Class Counsel at www.cbplaw.com.

Exhibit 3

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 November 19, 2024.

- Any objection to the Settlement must also be postmarked by November 19, 2024.
- 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 November 19, 2024.

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 will ask 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 will be filed by November 4, 2024, and subsequently made 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 **November 19, 2024**, 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 November 19, 2024, 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 **November 19, 2024**, 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 November 19, 2024, 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 December 18, 2024 at 3:00 p.m. 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.