

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

_____)	
CHERYL SLADE, Individually and on behalf)	
of others similarly situated,)	
)	
Plaintiff,)	
)	Case No. 6:11-cv-02164
v.)	
)	Judge Michael J. Juneau
PROGRESSIVE SECURITY INSURANCE)	
COMPANY,)	Magistrate Judge Carol B. Whitehurst
)	
Defendant.)	
_____)	

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into as of the 26th day of January 2021, by and between Plaintiffs Cheryl Slade, Carnelius Borel-Minix, and Denis Stevens (collectively “Plaintiffs”), individually and on behalf of the Class (defined below) and Defendant Progressive Security Insurance Company (“Progressive Security” or “Defendant”).

Plaintiffs, the Class, and Progressive Security are referred to collectively as the “Parties” and individually as a “Party.”¹

WHEREAS, Plaintiffs allege in this Action that Progressive Security utilized an unlawful method—WorkCenter Total Loss (“WCTL”)—to value total loss automobiles in the state of Louisiana and breached the terms of their insurance policy in settling claims for total-loss vehicles;

WHEREAS, a Class has been certified consisting of: All named Louisiana Progressive Security insureds who received payment for total loss motor vehicles located in the State of

¹ All terms with initial capitalization shall have the meanings set forth in Paragraph 1 below or as otherwise defined herein.

Louisiana, under the terms of their collision automobile insurance policy with Progressive Security Insurance, utilizing the Mitchell WorkCenter Total Loss (WCTL) system, from July 1, 2010 to June 24, 2019;

WHEREAS, the Parties wish to resolve all claims asserted and all claims that could have been asserted in the Action;

WHEREAS, counsel for the Parties have engaged in arm's-length negotiations on the terms of this Agreement, as defined below, and this Agreement embodies all of the terms and conditions of this Settlement;

WHEREAS, Class Counsel has conducted investigation and discovery relating to the claims brought against Defendant, has analyzed the legal issues in this case, and has engaged in substantial motion practice over almost ten years of litigation. Class Counsel believes that this settlement is fair, reasonable, adequate, and in the best interests of the Class and that this Settlement Agreement should be approved by the Court under Federal Rule of Civil Procedure 23(e);

WHEREAS, Progressive Security wishes to avoid the costs, expenses, and uncertainties of this complex litigation;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties that the Class claims be settled and compromised, and dismissed on the merits with prejudice, subject to the terms and conditions set forth herein and further subject to Court approval:

1. Definitions: The following terms shall have the following meanings for purposes of this Agreement.

- a. “Action” shall mean the action captioned *Slade v. Progressive Security Insurance Company*, Case No. 6:11-cv-02164 (W.D. La.).
- b. “Agreement” means this Settlement Agreement between the Parties.
- c. “Case Contribution Award” means compensation for the Named Plaintiffs for their time and effort undertaken in the Action.
- d. “Class” is defined as all named Louisiana Progressive Security insureds who received payment for total loss motor vehicles located in the State of Louisiana, under the terms of their collision automobile insurance policy with Progressive Security Insurance, utilizing the Mitchell WorkCenter Total Loss (WCTL) system, from July 1, 2010 to June 24, 2019.
- e. “Class Action Complaint” shall mean the complaint filed in the Action, and all amendments thereto, including the Second Supplemental and Amending Petition.
- f. “Class Counsel” shall mean Kenneth St. Pe, Kenneth DeJean, Stephen B. Murray, Sr., Stephen B. Murray, Jr., Arthur M. Murray, and John R. Whaley.
- g. “Class Period” shall mean the period from July 1, 2010 to June 24, 2019.
- h. “Court” means the United States District Court for the Western District of Louisiana.
- i. “Defendant” shall mean Progressive Security Insurance Company.
- j. “Escrow Account” means the escrow account established to receive and maintain funds contributed on behalf of Defendant for the benefit of the Class.

- k. “Escrow Agreement” means that certain agreement by and among Progressive Security, a bank designated to hold the Escrow Account, and the Class (by and through Class Counsel) pursuant to which the Escrow Account is established and funded for the benefit of the Class.
- l. “Execution Date” means the date all Parties to this Agreement sign the Agreement.
- m. “Final Approval” means an order and judgment by the Court which finally approves this Agreement and the Settlement pursuant to Federal Rule of Civil Procedure 23 and dismisses with prejudice the claims asserted against Defendant in the Action.
- n. “Final Judgment” means the first date upon which both of the following conditions shall have been satisfied:
 - i. Final Approval; and
 - ii. Either (1) thirty days have passed from the date of Final Approval with no notice of appeal having been filed with the Court; or (2) Final Approval has been affirmed by a mandate issued by any reviewing court to which any appeal has been taken, and any further petition for review (including certiorari) has been denied, and the time for any further appeal or review of Final Approval has expired.
- o. “Notice and Administrative Costs” means the reasonable and authorized costs and expenses of disseminating and publishing Class Notice, as defined below, and all reasonable and authorized costs and expenses incurred by the Settlement Administrator in administering the Settlement, including but not

limited to costs and expenses associated with assisting members of the Class, processing claims, escrowing funds, and issuing and mailing payments.

- p. “Preliminary Approval” means a ruling by the Court to preliminarily approve this Agreement and the Settlement pursuant to Federal Rule of Civil Procedure 23.
- q. “Progressive Security Insurance Company” or “Progressive Security” shall mean Progressive Security Insurance Company and its current and former, direct and indirect, parents, subsidiaries, affiliates, insurers, directors, officers, shareholders, employees, agents and representatives.
- r. “Released Claims” shall have the meaning set forth in Paragraph 14 of this Agreement.
- s. “Releasing Party” or “Releasing Parties” shall refer individually and collectively to the Class and all Class Members, including the Named Plaintiffs, each on behalf of themselves and their respective predecessors and successors, agents, attorneys, insurers, heirs, executors, administrators, devisees, representatives; the assigns of all such persons or entities, as well as any person or entity acting on behalf of or through any of them in any capacity whatsoever, jointly and severally.
- t. “Released Parties” means Progressive Security Insurance Company and its current and former, direct and indirect parents, subsidiaries, affiliates, insurers, directors, officers, shareholders, employees, agents and representatives. As used in this Paragraph, “affiliates” means entities

controlling, controlled by or under common ownership or control with, in whole or in part, any of the Released Parties.

- u. “Settlement” means the settlement of this Action and the Released Claims (as defined herein) with respect to Progressive Security and the Released Parties, as set forth in this Agreement.
 - v. “Settlement Administrator” means a firm to be retained by Class Counsel to disseminate Class Notice, subject to approval of the Court.
 - w. “Settlement Funds” means the payments required to be made by Progressive Security pursuant to this Agreement.
 - x. “Special Master” means a firm or individual to be retained by Class Counsel to disburse the Settlement Funds to the Class, subject to approval of the Court. Progressive Security will have no role in the selection of the Special Master, and the cost of the Special Master will be paid from the Settlement Fund.
2. The Parties’ Efforts to Effectuate this Settlement. The Parties have agreed to support entry of Final Approval, including through the conclusion of any appeal, motion for re-argument, motion for rehearing, petition for a writ of certiorari or other writ.
3. Settlement Announcement and Litigation Standstill. Upon execution of this Agreement, the Parties shall inform the Court that the Parties have executed this Agreement and shall cease all litigation activities related to the pursuit of this Action.

4. Motion for Preliminary Approval. As soon as practicable, and in no event later than thirty (30) days after the Execution Date, Plaintiffs, through Class Counsel, shall submit to the Court a motion for Preliminary Approval of this Agreement. The Preliminary Approval motion shall include: (a) a proposed form of, method for, and date of dissemination of notice of this Settlement; (b) a proposed schedule for the filing of any motion for fees and expenses, the filing of a motion to approve finally this Agreement, and a fairness hearing; and (c) a proposed form of order preliminarily approving this Agreement. The items referred to in clauses (a) through (c) above shall be proposed by Plaintiffs, through Class Counsel, subject to the agreement of Progressive Security, which agreement shall not be unreasonably withheld. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval of this Agreement.
5. Class Notice. After Preliminary Approval, and subject to approval by the Court of the means for dissemination of notice of this Settlement (“Class Notice”):
 - a. As set forth in Paragraph 9 below, Progressive Security shall use its best efforts to provide the names and addresses of all known Class members during the Class Period, or confirm that it has provided such information previously.
 - b. Class Notice shall be provided in accordance with a notice plan, which shall be submitted to the Court for approval in connection with the motion for Preliminary Approval.
 - c. After Final Judgment has been entered, and with Court approval, all Notice and Administrative Costs, including without limitation, costs and expenses

associated with the Escrow Account, and the costs and expenses for filing of tax returns and payment of taxes, will be paid out of the Settlement Funds as specified in the Escrow Agreement. All expenses and costs incurred by the Class and Class Counsel shall be reimbursed and indemnified solely out of the Settlement Funds, as provided by an order of the Court. Progressive Security and the Released Parties shall not be liable for any costs, fees, or expenses of any of Plaintiffs' and Class Counsel's attorneys, experts, advisors, agents, or representatives. All such costs, fees, and expenses shall be paid out of the Settlement Funds.

6. Motion for Final Approval and Entry of Final Judgment. If the Court grants Preliminary Approval of this Agreement, Plaintiffs, through Class Counsel, shall— in accordance with the schedule set forth in the Court's Preliminary Approval— submit to the Court a separate motion for Final Approval of this Agreement by the Court. The motion for Final Approval shall seek entry of an order and Final Judgment:
 - a. finally approving the Settlement as being a fair, reasonable, and adequate settlement for the Class within the meaning of Federal Rule of Civil Procedure 23, and directing the execution of the Settlement pursuant to the terms and conditions set forth in this Agreement;
 - b. dismissing the Action, with prejudice;
 - c. discharging and releasing the Released Parties from all Released Claims;and

- d. reserving continuing and exclusive jurisdiction over the Settlement for all purposes.
7. Escrow Account. The Escrow Account will be established and shall be administered by Class Counsel under the Court's continuing supervision and control pursuant to the Escrow Agreement. Prior to Final Approval, no disbursements of funds from the Escrow Account will occur without order of the Court. Progressive Security shall have no role in, responsibility for, or liability associated with the Escrow Account.
8. Settlement Consideration. Subject to the provisions hereof, and in consideration of the release of the Released Claims, Progressive Security agrees to pay Forty Million (\$40,000,000) into the Escrow Account not later than fifteen (15) business days after the Preliminary Approval. Plaintiffs shall be allowed to withdraw from the Settlement Fund up to \$45,000 to be used for notice administration and for providing Notice of this Settlement to the Class. Prior to Final Approval, up to \$5,000 in reasonable expenses, costs, and fees incurred by the Escrow Agent may be charged against and paid from the Escrow Funds upon receipt of a copy of an order issued by the Court approving such fees, costs, and expenses. No additional payments will be made by Progressive Security to Plaintiffs or the Class. The Settlement Funds represent all sums owed and payable by Progressive Security pursuant to this Agreement, including payment of damages, attorneys' fees, incentive fees, notice costs, costs of administration and the Special Master and costs of any kind. The Parties agree and acknowledge that none of the Settlement Funds

paid by or on behalf of Progressive Security under this Agreement shall be deemed to be, in any way, a penalty or a fine of any kind.

9. Cooperation. Progressive Security shall provide cooperation to the Class through Class Counsel as specified below. Progressive Security shall have no other cooperation obligation under this Agreement, unless expressly stated in this Agreement.

a. **Preliminary Approval**. The Parties agree to cooperate to the extent reasonably necessary in connection with Lead Counsel's preparation of the motion for Preliminary Approval and any related documents necessary to effectuate and implement the terms and conditions of this Agreement.

b. **Data for Class Notice**. Within ten (10) days after the Execution Date, Progressive Security shall supply to Lead Counsel at Progressive Security's expense and in such form as kept in the regular course of business (electronic format if available) the names and addresses of known Class Members during the Class Period, or confirm that it has provided such information previously.

10. Material Breach and Reservation of Rights. Progressive Security agrees that a material breach of this Agreement will have occurred if Progressive Security defaults under the terms of this Agreement—specifically, if Progressive Security fails in its obligation to provide the Settlement Funds (as set forth in Paragraph 8 of this Agreement), or if Progressive Security fails to cooperate as set forth in Paragraph 9 of this Agreement. In the event Progressive Security violates any material provision of this Agreement as set forth above, Plaintiffs shall be entitled

to void this Agreement, in which case the Agreement shall be of no force or effect, the Releases set forth in Paragraphs 14 and 15 shall have no force or effect, any dismissal with prejudice of the Action or Final Judgment shall be of no force or effect, the Class and Class members shall be entitled to reinstate and assert the full amount of the claims in the Action against Progressive Security as if they had never been dismissed or compromised, reduced only by the value of any consideration actually received, and with all statutes of limitations deemed tolled during the period between dismissal and reinstatement, and without the need to re-file the Class Action Complaint or re-serve any Party with process. If for some reason the Court does not permit the reinstatement and reassertion of such claims as set forth in the preceding sentence, nothing in this Agreement shall be deemed to preclude Plaintiffs from enforcing any other rights they have under this Agreement including, but not limited to, enforcing their rights to any payments under this Agreement.

11. Qualified Settlement Fund. The Parties agree to treat the Settlement Funds as being at all times a Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1, and to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Class Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph 11, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the

responsibility of Class Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a “Qualified Settlement Fund” within the meaning of Treasury Regulation § 1.468B-1. Class Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Settlement Funds (including without limitation the returns described in Treas. Reg. § 1.468B-2(k), (1)). Such returns shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Funds shall be paid out of the Settlement Funds. Progressive Security shall not be responsible for the filing or payment of any taxes or expenses connected to the Qualified Settlement Fund.

12. Distribution of Settlement Funds to Settlement Class.

- a. Members of the Class who have not timely and validly excluded themselves from the Class shall be entitled solely to the Settlement Funds for settlement and satisfaction against Progressive Security for the Released Claims and shall not be entitled to any other payment or relief from Progressive Security or the Released Parties. Except as provided by order of the Court, no Class Member shall have any interest in the Settlement Funds or any portion thereof. Plaintiffs, Class Members, and Class Counsel will be reimbursed and indemnified solely out of the Settlement Funds for all expenses including, but not limited to, the costs of notice of the Settlement to the Class and the expense of the Special Master for disbursing Settlement

Funds. The Released Parties shall not be liable for any costs, fees, or expenses of any of Plaintiffs' or the Class's respective attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Funds. If the Court grants Final Approval of this Agreement pursuant to the provisions of Paragraph 6, Plaintiffs, through Class Counsel and with Court approval, may use the Settlement Funds to pay such costs and expenses for the litigation of the Class Action as set forth in this Paragraph.

- b. The remaining Settlement Funds shall be disbursed to the Class as determined by a Special Master to be engaged by Class Counsel, with Court approval. The Special Master shall have sole discretion to develop the criteria for distribution of the Settlement Funds with no input from either Progressive Security or Class Counsel.
- c. Any portion of the Settlement Fund that remains unclaimed by the Class one year following the first Class member distribution according to the Special Master's recommendation (the "Reverter") will revert to Progressive Security. Class Counsel, acting through the Claims Administrator or any other delegate, shall be required to pay the Reverter to Progressive Security within fifteen (15) days of the one-year anniversary of the first Class Member distribution according to the Special Master's recommendation. The Reverter shall be maintained in the Escrow Account until paid to Progressive Security.

13. No Objection to Fee Request or Case Contribution Awards. Progressive Security shall not take any position with respect to Plaintiffs' application for attorneys' fees, and for reimbursement of costs and expenses. In addition, Progressive Security shall not oppose any reasonable request for Case Contribution Awards to Plaintiffs. The procedure for and the denial or allowance by the Court of attorneys' fees, reimbursement of costs and expenses and Case Contribution Awards are considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceeding relating to the applications for attorneys' fees, reimbursement of costs and expenses and Case Contribution Awards, or any appeal from any order relating thereto or the reverse or modification thereof, will not operate to terminate or cancel this Agreement, or affect or delay the finality of the Final Judgment approving the Agreement and the Settlement.

14. Release. Upon Final Judgment and in consideration of payment of the Settlement Funds into the Escrow Account, and for other valuable consideration, the Released Parties shall be completely released, acquitted, and forever discharged from any and all claims, complaints, demands, actions, suits, causes of action, whether class, individual, regulatory or otherwise in nature (whether or not any Class Member has objected to the Settlement or makes a claim upon or participates in the Settlement Funds, whether directly, representatively, derivatively or in any other capacity) that the Releasing Parties ever had, now have, or hereafter can, shall, or may ever have, that exist as of the date of Final Judgment, on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or

unsuspected, actual or contingent, liquidated or unliquidated claims, injuries, damages, and the consequences thereof in any way arising out of or relating in any way to the facts and circumstances alleged in the Action, including but not limited to the claims, defenses, indemnities and/or set-offs asserted in or in response to the Class Action Complaint (“Released Claims”). Prior to Final Judgment, as determined by the Court, all Releasing Parties shall be preliminarily enjoined and barred from asserting any Released Claims against any of the Released Parties. The release of the Released Claims will become effective as to all Releasing Parties upon Final Judgment. Upon Final Judgment, the Releasing Parties further agree that they will not file any other suit or regulatory action against the Released Parties arising out of or relating to the Released Claims.

15. Further Release. In addition to the provisions of Paragraph 14, the Releasing Parties hereby expressly waive and release, solely with respect to the Released Claims, upon Final Judgment, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which states:

CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Each Releasing Party may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are released pursuant to the provisions of Paragraph 14, but

each Releasing Party hereby expressly waives and fully, finally, and forever settles and releases, upon Final Judgment, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that the Releasing Parties have agreed to release pursuant to Paragraphs 14 and 15, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

16. Effect of Disapproval. If the Court does not approve this Agreement in all material respects, or if the Court does not enter Final Approval as provided for in Paragraph 6, or if any judgment approving this Agreement is materially modified or set aside on appeal, or if all of the conditions for Final Judgment do not occur as set forth in Paragraph 1(n) of this Agreement, then this Agreement may be cancelled and terminated. If cancelled and terminated, this Agreement shall become null and void, the Settlement Funds, net of expended or incurred escrow fees, taxes, and amounts expended or incurred for Class Notice and notice administration (and associated claims forms) pursuant to approval by the Court (subject to a maximum of \$45,000), shall be returned to Progressive Security within ten (10) days of such termination, the Parties shall be returned to their respective positions in the Action as if this Agreement had never been entered into without prejudice to any claims, rights or defenses of the Parties, and the Release (set forth in Paragraphs 14 and 15) shall be voided and shall be of no force or effect, any dismissal with prejudice of the Action or Final Judgment shall be of no force or effect, and the Plaintiffs (on behalf of the Class) shall be entitled to have any Final Judgment vacated and have their respective claims alleged in the Class Action Complaint reinstated as if they

had never been dismissed or compromised, with all statutes of limitation deemed tolled between the time of dismissal and re-instatement, and without the need to reserve any Party with process. The Parties and the Class expressly reserve all of their rights if Final Judgment is not entered in accordance with the terms of this Agreement.

17. Consent to Jurisdiction. The Parties and any Releasing Parties hereby irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement. Without limiting the generality of the foregoing, it is hereby agreed that any dispute concerning the provisions of Paragraph 14 or 15, including but not limited to, any suit, action, or proceeding in which the provisions of Paragraph 14 or 15 are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, constitutes a suit, action, or proceeding arising out of or relating to this Agreement. In the event that the provisions of Paragraph 14 or 15 are asserted by any Released Party as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection in any suit, action or proceeding, it is hereby agreed that such Released Party shall be entitled to a stay of that suit, action, or proceeding until the Court has entered a final judgment no longer subject to any appeal or review determining any issues relating to the defense or objection based on such provisions. Solely for purposes of such suit, action, or proceeding, to the fullest extent that they may effectively do so under applicable law, the Parties and any Releasing Parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are

not subject to the in *personam* jurisdiction of the Court. Nothing shall be construed as a submission to jurisdiction for any purpose other than enforcement of this Agreement.

18. Class Action Fairness Act. Progressive Security, at its sole expense, shall submit all materials required to be sent to appropriate Federal and State officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.
19. No Responsibility or Liability for Administration of Settlement Funds. Progressive Security and the Released Parties shall have no responsibility or liability relating to the administration, investment, or distribution of the Settlement Funds, including the selection of the Special Master.
20. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors, assigns, and heirs of the Parties, Class Members, the Releasing Parties, and the Released Parties. Without limiting the generality of the foregoing, upon Final Approval of the Settlement, each and every covenant and agreement herein by the Plaintiffs shall be binding upon all Class Members and Releasing Parties who have not validly excluded themselves from the Class.
21. Authorization to Enter this Agreement.
 - a. The undersigned representative of Progressive Security covenants and represents that he is fully authorized to enter into and to execute this Agreement on behalf of Progressive Security.
 - b. Class Counsel represent that they are fully authorized to conduct settlement negotiations with defense counsel on behalf of the Plaintiffs and Class and

that they have been authorized by Plaintiffs to execute this Settlement Agreement.

- c. The Parties further acknowledge that this Agreement represents the entire agreement by and between them and that each makes no other representation or warranty upon which the other can rely other than as stated herein.

24. Notices. All notices under this Agreement shall be in writing. Each such notice shall be given either by: (a) hand delivery; (b) registered or certified mail, return receipt requested, postage pre-paid; or (c) Federal Express, UPS, or similar overnight courier, and, in the case of either (a), (b) or (c) shall be addressed, if directed to Plaintiffs or any Class Member, to:

Stephen B. Murray, Jr.
MURRAY LAW FIRM
Suite 2150 Poydras Center
650 Poydras Street
New Orleans, Louisiana 70130

Progressive Security to:

Jeffrey S. Cashdan
King & Spalding LLP
1180 Peachtree St NE,
Atlanta, GA 30309

or such other address as the Parties may designate, from time to time, by giving notice to all parties hereto in the manner described in this Paragraph.

25. No Admission. Whether or not Final Judgment is entered or this Agreement is terminated, the Parties expressly agree that this Agreement and its contents, and any and all statements, negotiations, documents, and discussions associated with it, are not and shall not be deemed or construed to be an admission or evidence of any

violation of any statute or law or of any liability or wrongdoing by Progressive Security or any of the Released Parties. Nothing in this Agreement shall affect the application of Federal Rule of Evidence 408 in any instance where it would otherwise apply.

26. No Third-Party Beneficiaries. No provision of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a Released Party, Plaintiff, Class Member, or Class Counsel (on behalf of the Class and with respect to fees and disbursements to be paid from the Settlement Funds pursuant to Court order).
27. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.
28. Choice of Law. All terms of this Agreement and the other documents contemplated herein shall be governed by and interpreted according to the substantive laws of the State of Louisiana, without regard to its choice of law or conflict of laws principles.
29. Amendment and Waiver. This Agreement shall not be modified in any respect except by a writing executed by the Parties, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement.

Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

30. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement. Facsimile or Electronic Mail signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Agreement and filed with the Court.
31. Integrated Agreement. This Agreement comprises the entire agreement between the Parties and the terms of this Agreement are contractual and are not a mere recital. The Parties agree that this Agreement may be modified only by a written instrument signed by the Parties and that no Party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Agreement not in writing and signed by the Parties.
32. Voluntary Settlement. The Parties agree that this Agreement and the Settlement were negotiated in good faith by the Parties and reflect a Settlement that was reached voluntarily after consultation with competent counsel and participation of a neutral mediator.
33. Non-Disclosure. Other than as set forth in Paragraphs 4, 5, and 6 of this Agreement, Named Plaintiffs and Class Counsel will not affirmatively contact the news media;

issue any press release; hold press conferences in any media; conduct on-camera, on-air or web-based interviews; or use any form of paid media or advertising to publicize, promote, or characterize the Settlement. In response to inquiries from anyone other than a Class Member or counsel for a Class Member, Plaintiffs and Class Counsel agree not to comment. Class Counsel and Defendants' Counsel may factually and neutrally describe their respective roles in marketing or other materials without characterizing the Settlement.

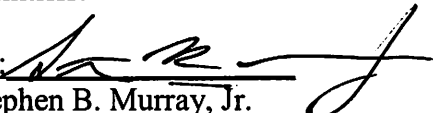
- a. The restrictions of this paragraph will not prevent the disclosure of information concerning the proposed Settlement (a) to regulators (including, but not limited to, the U.S. Securities and Exchange Commission), rating agencies, or financial analysts; (b) to any other person or entity (such as special masters, experts, courts, and/or administrators) to which the Parties agree disclosure must be made in order to effectuate the terms and conditions of this Agreement (c) to any other person consistent with the class notice plan set forth in the Court's Preliminary Approval Order and (d) to the Court. If any Party receives a subpoena or other compulsory process seeking the production or other disclosure of information related to this Action or this Settlement, the recipient of such a demand will give written notice (by hand, email, or facsimile transmission) to the non-recipient Party within five business days of receipt of such a demand (or if a response to the demand is due in less than five business days, at least 24 hours prior to the deadline for a response to the demand), identifying the

information sought and enclosing a copy of the demand. Absent agreement among the Parties or an order from a court of competent jurisdiction compelling production, the recipient of such a demand must object to the production of the material on the grounds of the existence of this Settlement Agreement.

- b. Nothing herein will be construed as requiring a challenge or appeal of any order requiring production of information related to these Actions or this Settlement, or requiring that either Party subject itself to any penalties for noncompliance with any legal process or order. Compliance with any order directing production pursuant to a demand will not constitute a breach of this Settlement Agreement.

IN WITNESS WHEREOF, the Parties, individually or through their duly authorized representatives, enter into this Agreement on the date first above written.

Plaintiffs:

By: 
Stephen B. Murray, Jr.
MURRAY LAW FIRM
Suite 2150 Poydras Center
650 Poydras Street
New Orleans, Louisiana 70130

Progressive Security Insurance Company:

By: Jeffrey S. Cashdan
Jeffrey S. Cashdan
KING & SPALDING LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309

Kenneth D. St. Pe
KENNETH D. ST. PE, APLC
311 W. University Avenue, Suite A
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Kenneth W. DeJean
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