

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

CHERYL SLADE, Individually and on  
behalf of others similarly situated

CASE NO.: 6:11-cv-02164

V.

PROGRESSIVE SECURITY  
INSURANCE COMPANY

MAG. JUDGE CAROL WHITEHURST

**MOTION FOR PRELIMINARY**  
**APPROVAL OF SETTLEMENT**  
**AGREEMENT**

NOW INTO COURT, through undersigned counsel, come Plaintiffs Cheryl Slade, D. Wayne Stevens, and Carnelius Borel-Minix, individually on behalf of all persons similarly situated, and respectfully move this Court for an Order granting preliminary approval of the Class Action Settlement Agreement (Settlement Agreement) for the following reasons:

1. On November 10, 2011, Plaintiff Cheryl Slade filed this Class Action on behalf of herself and all persons similarly situated;
2. After extensive district court and appellate proceedings, this Court certified a class of:  

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.
3. The Court appointed Cheryl Slade, D.Wayne Stevens and Carnelius Borel-Minix as class representatives, and Stephen B. Murray, Sr., Stephen B. Murray, Jr., Arthur M. Murray, Kenneth St. Pe and Kenneth Dejean to act as class counsel. Subsequently, this Court named J.R. Whaley as additional class counsel.

4. Class Notice was sent to the class, according to a notice plan approved by this Court, and all class members were afforded an opportunity to opt out. Only sixteen class members chose to opt out.
5. After extensive arms' length negotiations, the parties agreed to settle all claims asserted in this class action, and entered into the Settlement Agreement attached hereto as Exhibit A.
6. All parties, including the Class Representatives, agree that the Settlement Agreement, which establishes a fund of \$40,000,000 to be allocated equitably to class members by a Court-appointed Special Master, is fair, reasonable and adequate. *See* Attached affidavits of Class Representatives and Class Counsel, attached hereto as Exhibits B and C.
7. The parties intend to provide notice of the Settlement Agreement to the Class, including their right to object, according to the attached Notice Plan. *See* Notice Plan, attached hereto as Exhibit D. The form and method of notice substantially tracks the Notice Plan previously approved by this Court by which notice of this class action and the ability to opt out was provided to the Class.
8. Class Counsel intend to move this Court to approve attorneys' fees not to exceed one third (33 1/3%) of the Settlement Fund, and the Proposed Notice advises Class members of this fact. The Settlement Agreement contains no provision regarding attorneys' fees, except that any attorneys' fees will be paid from the settlement fund upon motion by Class Counsel and Court approval. Progressive takes no position with respect to any request for attorneys' fees.
9. Defendant Progressive Security Insurance Company consents to this motion for preliminary approval.

WHEREFORE, for the additional reasons as set forth in the attached Memorandum in Support of Motion for Preliminary Approval, Plaintiffs move this Court to grant preliminary approval of the Settlement Agreement, to wit:

- \* Finding that the settlement satisfies the requirements of Federal Rule of Civil Procedure 23;
- \* Granting Preliminary Approval of the Settlement Agreement;
- \* Approving the Attached Notice Plan to disseminate notice of the Settlement Agreement to the Class;
- \* Setting a deadline for filing of objections to the Fairness of the Settlement, and a date for the Final Fairness Hearing and Hearing on Motion for Attorneys' Fees, and application for class representative incentive payments.

Respectfully submitted this 4th day of February, 2021.

MURRAY LAW FIRM

/s/ Stephen B. Murray, Jr.  
Stephen B. Murray, Jr.  
Stephen B. Murray, Sr.  
Arthur M. Murray  
Suite 2150 Poydras Center  
650 Poydras Street  
New Orleans, Louisiana 70130  
T: (504) 525-8100  
F: (504) 584-5242

*Counsel for Plaintiffs*



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.

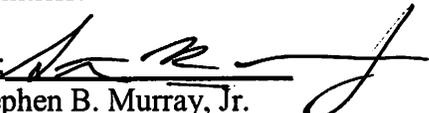
- a. The restrictions of this paragraph will not prevent the disclosure of information concerning the proposed Settlement (a) to regulators (including, but not limited to, the U.S. Securities and Exchange Commission), rating agencies, or financial analysts; (b) to any other person or entity (such as 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  
Lafayette, Louisiana 70506

Kenneth W. DeJean  
LAW OFFICES OF KENNETH W. DEJEAN  
Post Office Box 4325  
Lafayette, Louisiana 70502-4325

John Randall Whaley  
WHALEY LAW FIRM  
6700 Jefferson Highway  
Building 12, Suite A  
Baton Rouge, Louisiana 70806

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

**CHERYL SLADE, Individually and on  
behalf of others similarly situated**

**CASE NO: 6:11-cv-02164**

**VERSUS**

**JUDGE MICHAEL J. JUNEAU**

**PROGRESSIVE SECURITY INSURANCE**

**MAG. CAROL B. WHITEHURST**

---

**AFFIDAVIT**

**STATE OF LOUISIANA**

**PARISH OF LAFAYETTE**

**BEFORE ME**, the undersigned authority, duly commissioned and qualified, personally came and appeared **CHERYL SLADE**, who being duly sworn, deposed and said:

I am a named plaintiff and a class representative in the above-captioned lawsuit.

I, Cheryl Slade, have asserted a claim for relief as set forth in the Petition for Damages and Amended Motion for Class Certification filed in the above captioned lawsuit, individually and on behalf of persons similarly situated. I understand that a settlement has been reached compromising the claims of Cheryl Slade and the putative class of plaintiffs in the case titled *Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance*, captioned above.

Throughout the course of the above captioned litigation, acting on behalf of myself, Cheryl Slade, and the putative plaintiff class, I have communicated with class counsel in order to keep abreast of the progress of the litigation.

Throughout the negotiations of the Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance I communicated with class counsel regarding the proposed terms and conditions of the settlement.

Throughout the negotiations of the class settlement, Cheryl Slade has considered the interests of the putative class above her own interests in this litigation. The proposed settlement was reached after lengthy and hard-fought settlement negotiations, conducted at arm's-length absent any collusion between class representatives, class counsel and any of the settling defendants and/or their counsel.

I have reviewed the settlement agreement and consulted with class counsel regarding the terms of that agreement. I have discussed the benefits of the proposed settlement and the risks and potential benefits to the putative class of continued litigation, and have determined the benefits of the settlement outweigh the potential benefits to be achieved through continued litigation with the settling defendants.

On behalf of Cheryl Slade and the putative plaintiff class, I consider the settlement terms to be a fair and reasonable compromise.

Although I understand that I may apply to the Court for compensation for the time and expenses I have incurred on behalf of the putative class in pursuit of this litigation. I have not been promised any special compensation or other consideration for participation as a settlement class representative.

Acting on behalf of Cheryl Slade I understand that class counsel intend to apply for attorneys' fees in the amount of thirty-three and one-third percent (33 1/3%) of the Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance class action settlement fund. On behalf of Cheryl Slade and the settlement class, I consider that amount to be fair and reasonable compensation to class counsel for their considerable efforts on behalf of the putative plaintiff class.

Further affiant sayeth not.

  
CHERYL SLADE

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
2 DAY OF February, 2021.

  
NOTARY PUBLIC

CHRISTOPHER T. LEE  
Bar Roll Number 21707  
Commissioned For Life

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

**CHERYL SLADE, Individually and on  
behalf of others similarly situated**

**CASE NO: 6:11-cv-02164**

**JUDGE MICHAEL J. JUNEAU**

**VERSUS**

**PROGRESSIVE SECURITY INSURANCE**

**MAG. CAROL B. WHITEHURST**

---

**AFFIDAVIT**

**STATE OF LOUISIANA**

**PARISH OF LAFAYETTE**

**BEFORE ME**, the undersigned authority, duly commissioned and qualified, personally came and appeared **GALE STEVENS**, who being duly sworn, deposed and said:

That she is the wife of the late, Denis Wayne Stevens (the “Decedent”); that the Decedent died on December 12, 2017 (the “date of death”); that the Decedent was domiciled in and a resident of St. Mary Parish, State of Louisiana at the date of death.

I am a class representative in the above-captioned lawsuit.

I, **GALE STEVENS**, have asserted a claim for relief as set forth in the Petition for Damages and Amended Motion for Class Certification filed in the above captioned lawsuit, individually and on behalf of persons similarly situated. I understand that a settlement has been reached compromising the claims of Cheryl Slade and the putative class of plaintiffs in the case titled *Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance*, captioned above.

Throughout the course of the above captioned litigation, acting on behalf of myself, Gale Stevens, and the putative plaintiff class, I have communicated with class counsel in order to keep abreast of the progress of the litigation.

Throughout the negotiations of the Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance I communicated with class counsel regarding the proposed terms and conditions of the settlement.

Throughout the negotiations of the class settlement, I have considered the interests of the putative class above my own interests in this litigation. The proposed settlement was reached after lengthy and hard-fought settlement negotiations, conducted at arm's-length absent any collusion between class representatives, class counsel and any of the settling defendants and/or their counsel.

I have reviewed the settlement agreement and consulted with class counsel regarding the terms of that agreement. I have discussed the benefits of the proposed settlement and the risks and potential benefits to the putative class of continued litigation, and have determined the benefits of the settlement outweigh the potential benefits to be achieved through continued litigation with the settling defendants.

On behalf of the putative plaintiff class, I consider the settlement terms to be a fair and reasonable compromise.

Although I understand that I may apply to the Court for compensation for the time and expenses I have incurred on behalf of the putative class in pursuit of this litigation. I have not been promised any special compensation or other consideration for participation as a settlement class representative.

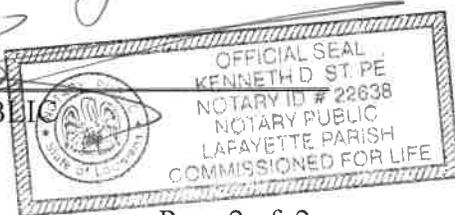
I understand that class counsel intend to apply for attorneys' fees in the amount of thirty-three and one-third percent (33 1/3%) of the Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance class action settlement fund. On behalf of the settlement class, I consider that amount to be fair and reasonable compensation to class counsel for their considerable efforts on behalf of the putative plaintiff class.

Further affiant sayeth not.

  
GALE STEVENS

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
3 DAY OF February, 2021.

  
NOTARY PUBLIC



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

**CHERYL SLADE, Individually and on  
behalf of others similarly situated**

**CASE NO: 6:11-cv-02164**

**VERSUS**

**JUDGE MICHAEL J. JUNEAU**

**PROGRESSIVE SECURITY INSURANCE**

**MAG. CAROL B. WHITEHURST**

---

**AFFIDAVIT**

**STATE OF LOUISIANA**

**PARISH OF LAFAYETTE**

**BEFORE ME**, the undersigned authority, duly commissioned and qualified, personally came and appeared **CARNELIUS BOREL-MINIX**, who being duly sworn, deposed and said:

I am a class representative in the above-captioned lawsuit.

I, Carnelius Borel-Minix, have asserted a claim for relief as set forth in the Petition for Damages and Amended Motion for Class Certification filed in the above captioned lawsuit, individually and on behalf of persons similarly situated. I understand that a settlement has been reached compromising the claims of Cheryl Slade and the putative class of plaintiffs in the case titled *Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance*, captioned above.

Throughout the course of the above captioned litigation, acting on behalf of myself, Carnelius Borel-Minix, and the putative plaintiff class, I have communicated with class counsel in order to keep abreast of the progress of the litigation.

Throughout the negotiations of the Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance I communicated with class counsel regarding the proposed terms and conditions of the settlement.

Throughout the negotiations of the class settlement, I have considered the interests of the putative class above my own interests in this litigation. The proposed settlement was reached after lengthy and hard-fought settlement negotiations, conducted at arm's-length absent any collusion between class representatives, class counsel and any of the settling defendants and/or their counsel.

I have reviewed the settlement agreement and consulted with class counsel regarding the terms of that agreement. I have discussed the benefits of the proposed settlement and the risks and potential benefits to the putative class of continued litigation, and have determined the benefits of the settlement outweigh the potential benefits to be achieved through continued litigation with the settling defendants.

On behalf of the putative plaintiff class, I consider the settlement terms to be a fair and reasonable compromise.

Although I understand that I may apply to the Court for compensation for the time and expenses I have incurred on behalf of the putative class in pursuit of this litigation. I have not been promised any special compensation or other consideration for participation as a settlement class representative.

I understand that class counsel intend to apply for attorneys' fees in the amount of thirty-three and one-third percent (33 1/3%) of the Cheryl Slade, Individually and on behalf of others similarly situated vs. Progressive Security Insurance class action settlement fund. On behalf of the settlement class, I consider that amount to be fair and reasonable compensation to class counsel for their considerable efforts on behalf of the putative plaintiff class.

Further affiant sayeth not.

*Carnelius Borel-Minix*  
CARNELIUS BOREL-MINIX

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
2 DAY OF February, 2021.

*[Signature]*  
NOTARY PUBLIC  
OFFICIAL SEAL  
KENNETH D. ST. PE  
NOTARY ID # 22638  
NOTARY PUBLIC  
LAFAYETTE PARISH  
COMM. EXPIRES FOR LIFE  
Page 2 of 2

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

**CHERYL SLADE, Individually and on  
behalf of others similarly situated**

**CASE NO.: 6:11-cv-02164**

**VERSUS**

**PROGRESSIVE SECURITY  
INSURANCE**

**JUDGE MICHAEL J. JUNEAU**

**MAG. JUDGE CAROL B. WHITEHURST**

**AFFIDAVIT**

**STATE OF LOUISIANA**

**PARISH OF ORLEANS**

**BEFORE ME**, the undersigned authority, duly commissioned and qualified, personally came and appeared **STEPHEN B. MURRAY, JR.**, who being duly sworn, deposed and said:

I am court-appointed class counsel in the above-captioned matter;

Since suit in this matter was filed in 2011, the parties have engaged in extensive litigation, exchanged thousands of documents, taken over twenty depositions, and have participated in two rounds of expert discovery;

This matter has been hard fought on both sides, at both the trial court and appellate level;

After nearly a decade of litigation, trial of this matter was scheduled to commence in March of 2021;

The parties first entered arm's length negotiations in 2018;

Over the next two years, the parties continued to engage in extensive arm's length negotiations, in both formal mediation and informal discussions;

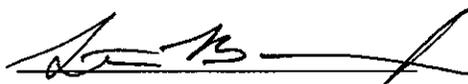
After two years of hard fought, arm's length negotiations, the parties agreed to the Settlement Agreement currently before the Court;

At all times, negotiations were conducted in good faith and arm's length;

Neither class counsel nor the class representatives were offered any consideration for agreeing to this settlement, beyond the terms set forth in the Settlement Agreement;

As counsel for the class, engaged in this litigation since its inception, I weighed the risk of further litigation against the benefits of the Settlement Agreement. I conferred with both my fellow class counsel and the class representatives about the terms of the agreement. Class counsel and Class Representatives are in unanimous agreement that the Settlement Agreement, which confers \$40 million, to be apportioned (less court-awarded attorneys' fees and costs) entirely to the class without need of completion of any claim form on the part of Class Members, to be fair reasonable and adequate.

Further affiant sayeth not



STEPHEN B. MURRAY, JR.

SWORN TO AND SUBSCRIBED before me at New Orleans, Louisiana, this 4<sup>th</sup> day of February, 2021.



NOTARY PUBLIC

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

Slade	Civil Action No. 6:11-cv-2164
versus	Judge Dee D. Drell
Progressive Security Insurance Co.	Magistrate Judge Carol B. Whitehurst

**DECLARATION OF CHRISTIAN J. CLAPP  
ON ANGEION GROUP QUALIFICATIONS AND NOTICE PLAN**

CHRISTIAN CLAPP, ESQ., of full age, hereby declares under penalty of perjury as follows:

1. I am Vice President of Class Actions and Mass Tort Services at the class action notice and settlement administration firm Angeion Group, LLC (“Angeion”).
2. This declaration describes the implementation of the Notice Plan for the above captioned litigation, including the proposed distribution of the Class Notice to Class Members and a proposed informational website.

**QUALIFICATIONS AND EXPERIENCE**

3. I joined Angeion in 2017. Prior to that I was Vice President and General Counsel at another class action administration firm for 6 years. I also previously served as an Assistant Attorney General in the Complex Litigation Division at the Office of the Minnesota Attorney General and was a class action litigator at the law firm of Heins Mills & Olson PLC. I have a J.D. from the University of Minnesota Law School and a B.A. in Psychology and German from the University of North Dakota.
4. I have presented on panels regarding class notice, claims processing and disbursement in class action cases. My recent speaking engagements regarding notice include: The AAJ Consumer

Group Meeting, Boston, *Changes to Notice under Proposed Federal Rule 23* (2017); The Miami Class Action and Complex Litigation Forum, Coral Gables, Florida, *Notice and Settlement Administration* (2017); HB Litigation Class Action Mastery Forum, New York City; *Communicating with the Class* (2018). Also, in 2016, I was an invited participant to the Duke Law Conference on Class Action Settlements regarding electronic notification of class members. In 2017, I was tasked with assisting the Duke Law Conference on Class Action Settlements in developing best practice guidelines for the dissemination of notice by electronic means.

5. I have co-authored and presented CLE programs and whitepapers regarding class notice and class action claims administration. In 2016, I co-authored a paper titled “*Crafting Digital Class Notices That Actually Provide Notice*” (Law360.com, New York (March 10, 2016)). I also developed and presented with a colleague *Developments in Legal Notice*, an accredited continuing legal education (“CLE”) program. Myself and my colleague presented this CLE at Shook Hardy & Bacon, LLP in Kansas City (2013), Halunen & Associates in Minneapolis (2013), and at Susman Godfrey in Dallas (2014).

6. By way of background, Angeion is an experienced class action notice and claims administration company formed by a team of executives that have had extensive tenures at five other nationally recognized claims administration companies. Collectively, the management team at Angeion has overseen more than 2,000 class action settlements and distributed over \$15 billion to class members. The executive profiles as well as the company overview are available at [www.angeiongroup.com/our\\_team.htm](http://www.angeiongroup.com/our_team.htm).

7. Angeion has extensive experience in class action matters, having provided notice and administration services in cases involving consumer, antitrust, employment and labor and securities fraud. Some notable cases Angeion has administered include: *In re: The Home Depot*,

*Inc., Customer Data Security Breach Litigation; Becket v. Aetna Inc.; In re: Ashley Madison Customer Data Security Breach Litigation; In re: Whirlpool Corp. Front-Loading Washer Products Liability Litigation; In re: LG Front-Loading Washing Machine Class Action Litigation; In re: Glaceau VitaminWater Marketing and Sales Practice Litigation (No. II); and In re: Honest Marketing Litigation.* Specific to the case at hand we have administered many cases involving insurance claims such as *Vogt v. State Farm, Citizens Bank Forced Placed Insurance-Cook v. RBS Citizens, N.A, and Weller HSBC Flood Insurance Settlement, and Gerber v. Geico Insurance Co.* to name a few.

8. Angeion has successfully developed and implemented hundreds of notice campaigns involving different methods of media, including direct mailed notice, email notice, text notice, printed media and digital media for millions of potential class members.

9. Courts have repeatedly recognized Angeion's work in the design of class action notice programs. For example:

(a) On February 24, 2017, in ***James Roy et al. v. Titeflex Corp. et al.***, 384003V (Md. Cir. Ct. 2013), the Honorable Ronald B. Rubin, noted when granting preliminary approval to the settlement: "*What is impressive to me about this settlement is in addition to all the usual recitation of road racing litanies is that there is going to be a) public notice of a real nature and b) about a matter concerning not just money but public safety and then folks will have the knowledge to decide for themselves whether to take steps to protect themselves or not. And that's probably the best thing a government can do is to arm their citizens with knowledge and then the citizens can make decision. To me that is a key piece of this deal. I think the notice provisions are exquisite.*" (emphasis added)

(b) Likewise, on May 12, 2016 in his Order granting preliminary approval of the settlement in ***In Re Whirlpool Corp. Front Loading Washer Products Liability Litigation (MDL No. 2001) (N.D. Ohio)***, The Honorable Christopher A. Boyko stated: *The Court, having reviewed the proposed Summary Notices, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan for distributing and disseminating each of them will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.*

*(c) Sateriale, et al. v R.J. Reynolds Tobacco Co., Case No. CV 09 08394 CAS (C.D. Cal.), Honorable Christina A. Snyder (May 3, 2016) The Court finds that the Notice provided to the Settlement Class pursuant to the Settlement Agreement and the Preliminary Approval Order has been successful, was the best notice practicable under the circumstances and (1) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, Due Process, and the rules of the Court.*

10. Federal Rule of Civil Procedure Rule 23(c)(2)(B) dictates that, “[f]or any class certified under Rule 23(b)(3), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.”

11. The notice program in this case is the best notice that is practicable under the circumstances and includes direct individual notice to all Class Members who can be identified through reasonable effort. Specifically, the notice program incorporates direct notice via US Postal Mail and also includes publications in the major Louisiana daily metro newspapers as well as an informational website.

### **PROPOSED NOTICE PLAN**

#### **Mailed Notice**

12. The direct notice effort in this matter will consist of mailing a postcard notice by U.S. first-class mail, postage prepaid, to all Class Members that have U.S. Postal Addresses in Defendants’ records. This direct mail notice effort will consist of mailing notice to approximately 100% of the addresses of the estimated 42,000 potential Class Members. Attached hereto as Exhibit 1 is a draft of the postcard notice to be sent to Class Members.

13. In addition to the postcard notice, Class Members may also request a long form notice which provides additional details regarding the lawsuit and Class Members' rights. The long form notice will be available on the designated case website and is attached hereto as Exhibit 2.

14. In administering notice in the above-referenced action, Angeion will employ the best practices described below to increase the deliverability rate of the mailed notice package.

15. Once the notice process commences, Angeion will cause the mailing address information for Class Members to be updated utilizing the National Change of Address ("NCOA") database, which provides updated address information for individuals who have moved during the previous four years and filed a change of address with the United States Postal Service ("USPS").

16. Mailed Notices returned to Angeion by the USPS with a forwarding address will be re-mailed to the new address and the Class Member database will be updated accordingly.

17. Mailed Notices returned to Angeion by the USPS without forwarding addresses will be subjected to an address verification search (commonly referred to as "skip tracing") utilizing Lexis Nexis, a nationally recognized address search firm. Lexis Nexis combines numerous public record and publicly available sources, which contains nationwide person locator, authentication, and verification information for approximately 400 million unique individuals based in the US and territories. Its sources include national credit reporting companies header databases, current and historic address files, white page phone publisher data, an Electronic Directory Assistance type database, Social Security death records from the Social Security Administration, numerous public record sources, including motor vehicle registrations, driver's license databases, voter registration databases, public license data and property ownership records, and data collected by marketing, registrations and warranty card aggregators.

18. For any Class Member where a new address is identified through the skip trace process, the Class Member database will be updated with the new address information and a Notice will be re-mailed to that address.

19. Additional efforts will be utilized to extend coverage to Class Members by running notice advertisements in Louisiana daily metro newspapers. An approximate 1/8-page Summary Notice (exact ad specs vary by newspaper) will appear twice in each of Louisiana's metro daily newspapers, with one weekday and one Sunday insertion, if available, for a total of 20 notice appearances. The selected newspapers and coverage areas are: *The Advocate* (Baton Rouge), *Town Talk* (Alexandria), *Daily Advertiser* (Lafayette), *News-Star* (Monroe), *Daily World* (Opelousas), *Times* (Shreveport), *Daily Courier* (Houma), *American Press* (Lake Charles), and *The Comet* (Thibodaux). Attached hereto as Exhibit 3 is a draft of the notice to appear in the Louisiana daily metro newspapers.

20. Once published, proof of performance showing a copy of each publication page on which the Summary Notice appeared will be provided to the Court.

### **Website**

21. Angeion has obtained the URL [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com). This website will be aesthetically and functionally designed to be user friendly and make it easy for Class Members to find relevant information regarding the case. This website will be dedicated to this matter and shall not contain any advertising. The homepage content will be simplified and streamlined so that specific and prominent language and graphic images will direct Class Members to specific content areas such as Frequently Asked Questions (FAQ), Important Deadlines and Case Documents and a Contact Us page that provides Class Members the ability to contact Angeion via email.

22. Recognizing the mobile nature of advertising and communications, the website is mobile-optimized, meaning it can be clearly read and used by Class Members visiting the website via smart phone or tablet. By visiting the settlement website, Class Members are able to read and download

key information about the lawsuit including, their rights and options, important dates and deadlines and FAQs.

23. The website address will be prominently displayed large bold font on the post card notice.

### CONCLUSION

24. I believe that the Notice Program is the best notice practicable under the circumstances and is fully compliant with Rule 23 of the Federal Rules of Civil Procedure, in that it will provide Class Members with the best notice practicable under the circumstances, including individual notice to all Class Members who could be identified through reasonable effort.

I hereby declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: February 4, 2021



---

Christian J. Clapp, Esq.

# **EXHIBIT 1**

**You could get money  
from a class action  
settlement totaling \$40  
Million if you received  
payment for a motor  
vehicle total loss in the  
State of Louisiana,  
under the terms of a  
collision automobile  
insurance policy with  
Progressive Security  
Insurance Company  
from July 1, 2010 to  
June 24, 2019.**

*A Federal Court authorized  
this notice.*

*This is not a solicitation from a  
lawyer.*

Slade v. Progressive Security  
c/o Administrator  
11296  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

«ScanString»

Postal Service: Please do not mark barcode

Notice ID: «Notice ID»  
«FirstName» «LastName»  
«Address1»  
«Address2»  
«City», «StateCd» «Zip»

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Slade v. Progressive Security Insurance Co., Case No: 6:11-cv-2164*

**WHO IS INCLUDED?** The Class generally includes all insureds of Progressive Security in the state of Louisiana who made a claim for first party vehicle damage under Collision coverage and whose vehicle was declared a total loss between July 1, 2010 and June 24, 2019. If you fit within this group, you are a Class Member who will be legally bound by all determinations made by the Court concerning the Class unless you request to be excluded from the Settlement. If you are not sure whether you are included in the Class, you may contact counsel for the Class or consult with an attorney, at your own expense.

**WHAT CAN I GET?** The \$40 million settlement will provide payments to Class Members. The amount of compensation paid for each claim will be determined by the Special Master and/or Claims Administrator (appointed by the Court to verify and approve such claims) using the Mitchell Work Center Total Loss (WCTL) vehicle evaluation forms maintained by Progressive for each class member's total loss claim.

**DO I HAVE TO SUBMIT A CLAIM?** No. Payments in the amounts determined by the Special Master will be mailed directly to Class Members. You do not have to submit any documentation or fill out any forms. A check will be mailed to you, along with an explanation of the Special Master's allocation to you. At that point, you can either accept the check (by cashing or depositing it) or present an objection to the Special Master. Instructions regarding how to object to your individual allocation will be included with the check.

**YOUR OTHER OPTIONS:** If you wish to be excluded from the Settlement class, you must mail a signed, written request for exclusion postmarked by **XXXXXX**. If you do not exclude yourself from the Settlement class, you may object to the Settlement by submitting a written objection by **XXXXXX**. For specific information on how to submit a written exclusion request or objection, and the requirements for each, please visit **www.SladeTotalLoss.com**.

**THE COURT'S FAIRNESS HEARING:** The Court has scheduled a hearing for **XXXXXX** to consider: (1) any properly submitted objections to the Settlement, (2) whether the Settlement is fair, reasonable, and adequate, (3) whether to grant final approval of Settlement, and (4) the amount of attorneys' fees and costs to be awarded to class counsel, and (5) whether to award an incentive payment to the class representatives. The Fairness Hearing may be moved to a different time or date without additional notice, so it is a good idea to check **www.SladeTotalLoss.com** for updated information.

**THIS IS ONLY A SUMMARY.** This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of each Settlement Agreement at the website. If you still have questions you may: (1) visit the website **www.SladeTotalLoss.com**; or (2) write to: Slade v. Progressive Security, c/o Administrator, 1650 Arch St., Ste. 2210, Philadelphia, PA 19103.

## **EXHIBIT 2**

**You could get money from a class action settlement totaling \$40 Million. If you received payment for a motor vehicle total loss in the State of Louisiana, under the terms of a collision automobile insurance policy with Progressive Security Insurance Company from July 1, 2010 to June 24, 2019.**

*A Federal Court authorized this notice. This is not a solicitation from a lawyer.*

Please read this notice carefully. Your legal rights are affected whether you act or not.

Progressive Security Insurance Company (“Progressive Security”) was sued by certain individuals (“Plaintiffs”) who allege that a class of individuals were injured because Progressive Security undervalued their total-loss vehicles by use of the Mitchell Work Center Total Loss (WCTL) valuation system. Progressive Security denies Plaintiffs’ allegations and any wrongdoing.

A settlement has been reached with Progressive Security, which has agreed to pay \$40 million into a Settlement Fund. This settlement will pay money to allegedly impacted individuals.

Generally, you are included in the settlement if you were a Louisiana Progressive Security insured who received payment for a total loss motor vehicle(s) located in the State of Louisiana, under the terms of a collision automobile insurance policy with Progressive Security Insurance Company, utilizing the Mitchell Work Center Total Loss (WCTL) system, from July 1, 2010 to June 24, 2019.

The settlement will provide payments to allegedly impacted individuals.

The Court has appointed a Special Master to allocate the settlement funds according to data contained in claims data produced by Progressive Security.

If you are included in these settlements, your legal rights are affected whether you act or not. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>Do Nothing</b>	Stay in this lawsuit. Await your allocation by the Special Master. Give up certain rights. By doing nothing, you remain eligible to receive a payment from the settlement fund. You will receive a check in the amount determined by the Special Master, and you will be given an opportunity to contest the Special Master's allocation. Unless you object to your allocation, you will not be required to do anything to receive your allocation payment. A check will be mailed to you. But you give up any right to sue Progressive Security separately on any claim that is or could have been included in in this lawsuit.
<b>Ask to be Excluded/ Opt Out</b>	Get no payment. This is the only option that allows you to file or continue your own lawsuit over the claims resolved by the Settlement.
<b>Object</b>	Write to the Court about why you do not like this Settlement. If you ask to be excluded, you cannot object.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the Settlement.

These rights and options—and the deadlines to exercise them—are explained in this Notice.

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION ..... PAGE 3**

- 1. Why was this Notice issued?
- 2. Why is this a class action?
- 3. Why is there a settlement?

**WHO IS IN THE SETTLEMENT..... PAGE 3**

- 4. Who is included in the Settlement?

**THE SETTLEMENT’S BENEFITS—WHAT YOU GET..... PAGE 4**

- 5. How much money is available to pay valid claims?
- 6. What documentation do I need to provide to participate in the Settlement?
- 7. What if there is money remaining in the Settlement fund after all claims have been paid?

**HOW TO GET A PAYMENT..... PAGE 4**

- 8. How can I get a payment?
- 9. When will I get my payment?
- 10. What am I giving up to get a payment?

**EXCLUDING YOURSELF FROM THE SETTLEMENT..... PAGE 5**

- 11. If I exclude myself, can I get anything from this Settlement?
- 12. If I do not exclude myself, can I sue later?
- 13. How do I get out of this Settlement?

**OBJECTING TO THE SETTLEMENT ..... PAGE 6**

- 14. How do I tell the Court if I do not agree with the Settlement?

**THE LAWYERS REPRESENTING YOU ..... PAGE 7**

- 15. Do I have a lawyer in the case?
- 16. How will the lawyers be paid?

**THE COURT’S FAIRNESS HEARING..... PAGE 8**

- 17. When and where will the Court consider whether to approve the Settlement?
- 18. Do I have to come to the hearing?
- 19. May I speak at the hearing?

**IF YOU DO NOTHING..... PAGE 8**

- 20. What happens if I do nothing?

**GETTING MORE INFORMATION..... PAGE 9**

- 21. How do I get more information?

## **BASIC INFORMATION**

### **1. Why was this Notice issued?**

A Court authorized this Notice because allegedly affected people have a right to know about the proposed settlement of a lawsuit related to allegations that Progressive Security allegedly undervalued first party vehicle loss claims by using the Mitchell Work Center Total Loss (WCTL) valuation system from July 1, 2010 to June 24, 2019. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who may be eligible for them, and how to get them. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to everyone in the class according to claims data provided by Progressive Security to a “Special Master” and/or “Claims Administrator” (officers appointed by the Court). The people asserting claims in the lawsuit are called “Plaintiffs.” Progressive Security is called the “Defendant.” This is a summary of the Settlement. The full Settlement Agreement is available at [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com). People who are included in the Settlement are strongly encouraged to review the full Settlement Agreement and consult with a lawyer about their rights and obligations under the Settlement. Your legal rights are affected whether you act or not.

### **2. Why is this a class action?**

In a class action, one or more people sue on behalf of people who have similar claims. All these people with similar claims are a class or class members. One court resolves the issues for all class members, except for those who exclude themselves from the class (*see* “Excluding Yourself from the Settlement,” below).

### **3. Why is there a settlement?**

The Court did not decide in favor of Plaintiffs or Defendant. Instead, the parties agreed to settle. This way, they avoid the costs and risks of a trial and any appeal, and the people allegedly affected will get compensation. The lawyers representing the Class (*see* “The Lawyers Representing You,” below) think the Settlement is best for all Class Members. The Settlement does not mean that Progressive Security did anything wrong, and Progressive Security denies the allegations made by Plaintiffs.

## **WHO IS IN THE SETTLEMENT?**

### **4. Who is included in the Settlement?**

The Class generally includes all insureds of Progressive Security in the state of Louisiana who made a claim for first party vehicle damage and whose vehicle was declared a total loss between July 1, 2010 and June 24, 2019. If you fit within this group, you are a Class Member who will be

legally bound by all determinations made by the Court concerning the Class unless you request to be excluded from this settlement as described in Questions 11 to 13. If you are not sure whether you are included in the Class, you may contact counsel for the Class or consult with an attorney, at your own expense.

## **THE SETTLEMENT'S BENEFITS—WHAT YOU GET**

All Class Members who are eligible to receive settlement payments and who do not exclude themselves from the Settlement will receive a payment. The Settlement Agreement can be viewed at the website and it describes in detail all the benefits available from the Settlement.

### **5. How much money is available to pay valid claims?**

The \$40 million settlement will provide payments to Class Members. The amount of compensation paid for each claim will be determined by the Special Master and/or Claims Administrator (appointed by the Court to verify and approve such claims) based on the Mitchell Work Center Total Loss (WCTL) vehicle valuation forms maintained by Progressive for each Class Member's total loss claim.

### **6. What documentation do I need to provide to participate in the Settlement?**

You do not have to provide any documentation to participate in the settlement. The Special Master will determine individual allocations by reference to claims information contained in the WCTL loss valuation reports maintained by Progressive Security for every total loss claim, as well as information from other sources such as the NADA Guide.

### **7. What if there is money remaining in the settlement after all claims have been paid?**

All of the settlement fund, is to be used to pay claims, as well as court-awarded attorneys' fees, costs and incentive payments to class representatives, if any. The entire fund, less court-awarded attorneys' fees and costs, and incentive payments to class representatives, if any, will be disbursed in checks to Class Members. If, however, after one year following the distribution of payments to Class Members for any checks remain uncashed, the amount of any uncashed checks will be returned to Progressive Security.

## **HOW TO GET A PAYMENT**

### **8. How can I get a payment?**

Payments in the amounts determined by the Special Master will be mailed directly to Class

Members. You do not have to submit any documentation or fill out any forms. A check will be mailed to you, along with an explanation of the Special Master's allocation to you. At that point, you can either accept the check (by cashing or depositing it) or present an objection to the Special Master. Instructions regarding how to object to your individual allocation will be included with the check.

### **9. When will I get my payment?**

Once the Court has granted final approval to the Settlement and any appeals from that ruling have been resolved, The Special Master and/or Claims Administrator will determine the amount of compensation each claimant is eligible to receive. The Special Master plans to complete this allocation process within 90 days, at which time checks will be mailed. If there are appeals, resolving them can take time. Please be patient.

### **10. What am I giving up to get a payment?**

If the Settlement becomes final, Class Members who do not opt out give up the right to sue Progressive Security and related parties for the "Released Claims" that are described in the Settlement Agreement. This means you will no longer be able to sue or continue to sue Progressive Security or related parties for any of the claims resolved by this Settlement.

The Settlement Agreement is available at the website [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com) and describes the Released Claims with specific descriptions in necessary, accurate legal terminology. Please read them carefully. You can contact class counsel or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Claims or what they mean.

As a general matter, the Class Members will provide Progressive Security and related parties with a full release of any and all claims whatsoever (a) arising out of, in any manner related to, or connected in any way with payment of first party total loss claims at issue in this lawsuit and/or (b) for any and all losses, damages and/or injuries arising from, in any manner related to, or connected in any way with all and/or any of the foregoing, including but not limited to any and all claims that a Class Member has, may have, or may have had, regardless of whether such claim is known or unknown, filed or unfiled, asserted or as of yet unasserted, or existing or contingent, and whether asserted by petition, complaint, cross-claim, third party demand, or otherwise (or any judgment or order entered on such claims), and regardless of the legal theory or theories of damage involved.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from the Settlement and you want to keep the right to sue Progressive Security at your own expense about the issues in this case, then you must take steps to get out of

the Settlement. This is called excluding yourself from—or is sometimes called “opting out” of—the Class.

**11. If I exclude myself, can I get anything from this Settlement?**

No. If you exclude yourself (or “opt out”), you cannot get any benefits from this Settlement and you cannot object to this Settlement. If you exclude yourself, however, you may sue or continue to sue Progressive Security in the future at your own expense about the issues in this case. You will not be bound by anything that happens in this lawsuit.

**12. If I do not exclude myself, can I sue later?**

No. You must opt out if you wish to pursue an individual claim against Progressive in connection with your total loss claim. If you do not opt out and the Settlement is approved, you will not be able to sue or continue to sue Progressive about any of the Released Claims. You may wish to contact counsel for the Class or consult with an attorney, at your own expense, before you make a decision about opting out of this Settlement.

**13. How do I get out of this Settlement?**

In order to opt out, you must mail a signed, written request for exclusion. Your request must include: (1) your full name, address, and telephone number; and (2) a clear statement that you wish to be excluded from the Settlement Class. The request must be signed by you, the Class Member, and not just by your attorney.

Mail your written request postmarked by \_\_\_\_\_, 2021 to:

Class Action Opt Out & Objection  
Attn: Slade v. Progressive Security  
PO Box 58220  
Philadelphia, PA 19102

**OBJECTING TO THE SETTLEMENT**

**14. How do I tell the Court if I do not agree with this Settlement?**

You can tell the Court if you do not agree with the Settlement or some part of it. To do so, you must remain a member of the Class (that is, if you opt out you may not object), and you must mail a written objection with specific reasons why you think the Court should not approve the Settlement. If you have an attorney, both you and your attorney must sign the objection. Your

objection must include your full name, address, e-mail address, if any (an e-mail address is not required), and telephone number. Your objection must also include the caption of this Litigation (*Slade v. Progressive Security Insurance Company, Case No. 6:11-02614*), a statement of whether you want to speak at the Fairness Hearing (*see* “The Court’s Fairness Hearing,” below), a list of any witnesses you intend to call at the hearing, the subject area of the witnesses’ testimony, and all documents to be used or submitted to the Court at the hearing. Mail your objection, postmarked by \_\_\_\_\_, 2021, to the address listed in Question 13 and to:

Clerk of Court  
U.S. District Court, Western District of Louisiana  
John M. Shaw United States Courthouse  
800 Lafayette St., Suite 2100  
Lafayette, Louisiana 70501

### THE LAWYERS REPRESENTING YOU

#### 15. Do I have a lawyer in the case?

Yes. The Court appointed the following lawyers, among others, as “Class Counsel” to represent all the members of the Class:

Stephen Murray, Jr. <b>Murray Law Firm</b> 701 Poydras St., Suite 4250 New Orleans, LA 70139 Phone: 504-525-8100	Kenneth D St Pe <b>Law Firm of Kenneth D St Pe</b> 311 University Ave, Suite A Lafayette, LA 70506 Phone: 337-534-4043
--	--

If you have questions, you may contact these lawyers. You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, however, you may hire one at your own expense.

You will not be charged because these lawyers will apply to the Court for payment of their fees, costs and expenses for their work on behalf of the entire class from the settlement fund (*see* “How Will The Lawyers Be Paid,” below). If you want to be represented by your own lawyer in this case, you may hire one at your own expense. If you have hired a lawyer to represent you for claims in this litigation, please contact your lawyer for further information.

#### 16. How will the lawyers be paid?

The settlement amount will be reduced by Court-approved deductions to (a) pay for lawyers' fees, costs and expenses that are approved by the Court, as well as any incentive payments to class representatives, and (b) pay for costs and expenses to administer the Settlement. After the Court grants "final approval" of these settlements (*see* "The Court's Fairness Hearing," below) and any appeals are resolved, Class Counsel will ask the Court for payment of attorneys' fees (not to exceed 33<sup>1</sup>/<sub>3</sub>% of the settlement amount), plus costs and expenses, to be paid from the settlement funds.

## THE COURT'S FAIRNESS HEARING

### 17. When and where will the Court consider whether to approve these Settlements?

The Court has scheduled a hearing for \_\_\_\_\_, 2021, at \_\_\_\_\_ a.m., at the U.S. District Court for the Western District of Louisiana, Lafayette Division, John M. Shaw United States Courthouse, 800 Lafayette St., LA 70501. At this hearing, the Court will consider: (1) any properly submitted objections to the Settlement, (2) whether the Settlement is fair, reasonable, and adequate, (3) whether to grant final approval of Settlement, and (4) the amount of attorneys' fees and costs to be awarded to class counsel, and (5) the application of class representatives for incentive payments.

The Fairness Hearing may be moved to a different time or date without additional notice, so it is a good idea to check the website for updated information.

### 18. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. You may also pay your own lawyer to attend the Fairness Hearing, but your lawyer's attendance is not necessary.

### 19. May I speak at the hearing?

To ask the Court for permission to speak at the Fairness Hearing, follow the procedures for objecting to the Settlement in Question 14. You cannot speak at the hearing if you exclude yourself from the Settlement.

## IF YOU DO NOTHING

### 20. What happens if I do nothing?

If you do nothing, you will be deemed to be a member of this class action and will receive payment in accordance with the Special Master's allocation. Unless you exclude yourself from the

Settlement, you will not be able to sue or continue to sue Progressive for the Released Claims.

## **GETTING MORE INFORMATION**

### **21. How do I get more information?**

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of each Settlement Agreement at the website. If you still have questions you may: (1) visit the website [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com); or (2) write to: Slade v. Progressive Security, c/o Administrator, 1650 Arch St., Ste. 2210, Philadelphia, PA 19103.

# **EXHIBIT 3**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

In the United States District Court for the Western District of Louisiana Lafayette Division  
*Slade v. Progressive Security Insurance Co., Case No: 6:11-cv-2164*

*A Federal Court authorized this notice. This is not a solicitation from  
a lawyer.*

**You could get money from a class action settlement totaling \$40 Million if you received payment for a motor vehicle total loss in the State of Louisiana, under the terms of a collision automobile insurance policy with Progressive Security Insurance Company from July 1, 2010 to June 24, 2019.**

**WHO IS INCLUDED?**

The Class generally includes all insureds of Progressive Security in the state of Louisiana who made a claim for first party vehicle damage and whose vehicle was declared a total loss between July 1, 2010 and June 24, 2019. If you fit within this group, you are a Class Member who will be legally bound by all determinations made by the Court concerning the Class unless you request to be excluded from the settlement. If you are not sure whether you are included in the Class, you may contact counsel for the Class or consult with an attorney, at your own expense.

**WHAT CAN I GET?**

The \$40 million settlement will provide payments to Class Members. The amount of compensation paid for each claim will be determined by the Special Master and/or Claims Administrator (appointed by the Court to verify and approve such claims) using the Mitchell Work Center Total Loss (WCTL) vehicle valuation forms maintained by Progressive for each class member's total loss claim.

**DO I HAVE TO SUBMIT A CLAIM?**

No. Payments in the amounts determined by the Special Master will be mailed directly to class members. You do not have to submit any documentation or fill out any forms. A check will be mailed to you, along with an explanation of the Special Master's allocation to you. At that point, you can either accept the check (by cashing or depositing it) or present an objection to the Special Master. Instructions regarding how to object to your individual allocation will be included with the check.

**YOUR OTHER OPTIONS**

If you wish to be excluded from the Settlement class, you must mail a signed, written request for exclusion postmarked by **XXXXXXX**. If you do not exclude yourself from the Settlement class, you may object to the Settlement by submitting a written objection by **XXXXXX**. For specific information on how to submit a written exclusion request or objection, and the requirements for each, please visit [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com).

**THE COURT'S FAIRNESS HEARING**

The Court has scheduled a hearing for **XXXXXXX** to consider: (1) any properly submitted objections to the Settlement, (2) whether the Settlement is fair, reasonable, and adequate, (3) whether to grant final approval of Settlement, (4) the amount of attorneys' fees and costs to be awarded to class counsel, (5) whether to grant an incentive payment to class representatives. The Fairness Hearing may be moved to a different time or date without additional notice, so it is a good idea to check [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com) for updated information.

**FOR ADDITIONAL INFORMATION ABOUT THE SETTLEMENT**

**THIS IS ONLY A SUMMARY.** This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of each Settlement Agreement at the website. If you still have questions you may: (1) visit the website [www.SladeTotalLoss.com](http://www.SladeTotalLoss.com); or (2) write to: Slade v. Progressive Security, c/o Administrator, 1650 Arch St., Ste. 2210, Philadelphia, PA 19103.

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

CHERYL SLADE, Individually and on  
behalf of others similarly situated

CASE NO.: 6:11-cv-02164

V.

PROGRESSIVE SECURITY  
INSURANCE COMPANY

MAG. JUDGE CAROL WHITEHURST

**MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY  
APPROVAL**

MAY IT PLEASE THE COURT:

After several years of arm's length negotiation, the parties have reached a settlement which is highly beneficial to the Class. The settlement affords significant monetary relief to the Class, and the proposed means of distribution by a court-appointed special master ensures an equitable distribution of the Settlement Fund to Class Members.<sup>1</sup> This settlement is fair, reasonable, adequate, and in the best interests of the Class and the Settlement Agreement should be approved by the Court under Federal Rule of Civil Procedure 23(e). Accordingly, Plaintiffs move this Court to grant preliminary approval, approve the attached Notice Plan, and set a date for a Final Fairness Hearing. Defendant Progressive Security Insurance Company agrees to this motion.

It has long been held that, where a settlement falls within the range of possible approval,

---

<sup>1</sup> Defined terms hold the meaning provided in the Settlement Agreement and use those terms in this memorandum.

a court should grant preliminary approval of a class settlement. *In Re Pool Products Distribution Market Antitrust Litigation*, 310 F.R.D. 300, 314-315 (E.D. La. 2015). “If the proposed settlement discloses no reason to doubt its fairness, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, does not grant excessive compensation to attorneys, and appears to fall within the range of possible approval, the court should grant preliminary approval.” *Id.*

The instant Settlement Agreement easily meets the test for preliminary approval. The parties negotiated at arm’s length over the course of several years, with the aid of mediators and settlement counsel.<sup>2</sup> Class Counsel and the Class Representatives have carefully reviewed the Settlement Agreement, and have concluded that the Settlement is in the best interest of the Class.<sup>3</sup> The Settlement Fund of \$40,000,000 is greater than the class-wide damages projection of Plaintiffs’ experts using a damages model Plaintiffs contend is consistent with the model approved by the Fifth Circuit in this matter. *See Slade v. Progressive*, 856 F.3d 408, 411 (5<sup>th</sup> Cir. 2017).

The settlement does not offer preferential treatment to either the Class Representatives or any segment of the class. Instead, the Settlement Agreement assures equal treatment of all Class Members by providing for distribution of the Settlement Fund through a court-

---

<sup>2</sup> See affidavit of Class Counsel, Stephen B. Murray, Jr., attached as Exhibit C to the Motion hereto.

<sup>3</sup> See Affidavit of Class Counsel, Stephen B. Murray, Jr., attached as Exhibit C and Affidavits of Class Representatives, attached as Exhibit B to the Motion hereto.

appointed special master. The Special Master will apportion the fund to individual class members according to claim-specific data contained in the WCTL reports for each claimant, taking into consideration the claims and defenses raised by the parties throughout the course of the litigation.<sup>4</sup> Additionally, the Special Master will provide Class Members with an explanation of their individual allocations and afford them an opportunity to object to their individual allocation determination.<sup>5</sup> The appointment of a neutral to ensure equitable allocation of settlement funds militates in favor of fairness. *In re Chinese Dry-wall Products Liability Litigation*, 424 F.Supp. 2nd 456, 486 (E.D. La. 2020). While the Class Representatives plan to ask this Court to award a class representative incentive, the Settlement Agreement provides no provision for class representative incentives. Any incentives paid to the class representatives will be awarded solely at the discretion of the Court. Hence, the agreement does not confer preferential treatment on the class representatives.

Likewise, the Settlement Agreement does not provide excessive compensation to Class Counsel. Indeed, as with class representative incentives, the Settlement Agreement makes no provision for attorneys' fees. Compensation to Class Counsel will be awarded at the sole discretion of the Court. In the Settlement Agreement, Defendant Progressive Security states that it takes no position with respect to the award of attorneys' fees. "[T]he prospect of fraud or collusion is substantially lessened where, as here, the settlement agreement leaves the determination and allocation of attorney fees to the sole discretion of the trial court." *In re Chinese Dry-wall*, 424 F.Supp. 3d at 486.

---

<sup>4</sup> See Affidavit of Proposed Special Master Randi Ellis, attached as Exhibit 1 to the Motion to Appoint Special Master.

<sup>5</sup> *Id.*

As provided in the proposed notice, Class Counsel intend to ask this Court for an award of attorneys' fees not to exceed one third of the Settlement Fund. This amount is well within the range of common benefit percentage of fund awards typically approved by the Fifth Circuit. Percentage of the fund common benefit fee awards between 25% and 33 1/3% are "routinely awarded in class actions." *Shaw v. Toshiba America Information Systems*, 91 F. Supp. 2d 942, 972 (E.D. Tex. 2000). Higher percentages have been awarded in protracted, novel litigation, such as the instant case. *See e.g. In re Combustion*, 986 F.Supp. 1116 (W.D. La.1997) (attorney fee award of 36% in case lasting ten years, settled before trial). However, the instant settlement is in no way contingent on Class Counsel being awarded any specific amount of fees. As noted above, the Settlement Agreement states that the parties have no agreement as to attorneys' fees, apart from the fact that any attorneys must be paid from the Settlement Fund.

Finally, the attached proposed Notice Plan is identical in form and procedure to the Notice Plan previously approved by this Court for providing notice of this Class Action and an opportunity to opt out to Class Members.<sup>6</sup> The Notice will reach Class Members through direct mail to each individual class member at their last known address. Additionally, the notice plan provides for publication to ensure maximum reach. The Notice advises class members of their right to opt out or object to the Settlement Agreement, and also advises Class Members of the legal effect of remaining in the class and participating in the settlement. The proposed Notice Plan provides adequate notice to the class of the Settlement and their rights thereunder. *DeHoyos v. Allstate Corp.*, 240 F.R.D. 269, 301-302 (W.D. Tex. 2007).

For these reasons, the Settlement Agreement easily satisfies the test for preliminary approval.

---

<sup>6</sup> See Notice Plan, attached as Exhibit D to the Motion for Preliminary Approval.

CONCLUSION

Considering the foregoing, Plaintiffs move this Court for an Order granting preliminary approval of the attached Settlement Agreement, approving notice to the Class of the settlement and right to object, and fixing the date of a Final Fairness Hearing and Motion for Award of Attorneys' Fees.

Respectfully submitted this 4<sup>TH</sup> day of February, 2021.

MURRAY LAW FIRM

/s/ Stephen B. Murray, Jr.

Stephen B. Murray, Jr.

Stephen B. Murray, Sr.

Arthur M. Murray

Suite 2150 Poydras Center

650 Poydras Street

New Orleans, Louisiana 70130

T: (504) 525-8100

F: (504) 584-5242

*Counsel for Plaintiffs*

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

CHERYL SLADE, Individually and on  
behalf of others similarly situated

CASE NO.: 6:11-cv-02164

VERSUS

PROGRESSIVE SECURITY  
INSURANCE

JUDGE MICHAEL J. JUNEAU

MAG. JUDGE CAROL B. WHITEHURST

ORDER GRANTING PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT  
AGREEMENT, AUTHORIZING DISSEMINATION OF NOTICE OF THE SETTLEMENT,  
AND SCHEDULING A HEARING FOR FINAL APPROVAL OF THE PROPOSED  
SETTLEMENT

WHEREAS, this matter having come before the Court by way of Plaintiffs' Motion for Preliminary Approval of Proposed Settlement, Authorizing Dissemination of Notice of the Settlement, and Scheduling a Hearing for Final Approval of the Proposed Settlement ('Motion');

WHEREAS, this Court previously certified this matter as a class action on behalf of:

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.

WHEREAS, this Court has appointed Stephen B. Murray, Jr., Stephen B. Murray, Sr., Arthur M. Murray, Kenneth St. Pe, Kenneth Dejean, and J.R. Whaley to serve as court-appointed Class Counsel ("Class Counsel");

WHEREAS, on June 24, 2019, Notice of the pendency of this Class Action was disseminated to all Class Members providing Class Members with the ability to exclude themselves from the Class;

WHEREAS, on January 26, 2021, Plaintiffs, individually and on behalf of the certified Class defined above, and Progressive Security Insurance Company (Progressive Security) entered into a Settlement Agreement (“Settlement”), which, if finally approved by the Court, will result in the settlement of all claims asserted against Progressive Security in the above-captioned action (“Action”);

WHEREAS, in full and final settlement of the claims asserted against Progressive Security, Progressive Security has agreed to pay \$40 million in cash in exchange for dismissal with prejudice of this matter and a full release of certain claims for Progressive Security and related parties (as defined in the Settlement Agreement);

WHEREAS, Plaintiffs have moved pursuant to Federal Rule of Civil Procedure 23(e) for an order preliminarily approving the Settlement Agreement, which sets forth the terms and conditions of the Settlement with Progressive Security;

WHEREAS, Plaintiffs have further moved for (i) approval of the manner and form of notice of the Settlement to the Class; (iii) approval of a proposed briefing schedule for (1) final approval of the Settlement (2) Class Counsel’s application for attorneys’ fees; (3) application for class representative incentive payments and (4) scheduling of a date and time for the Fairness Hearing;

WHEREAS, Plaintiffs and Progressive Security have agreed to the entry of this Order (the Order”);

WHEREAS, all terms with initial capitalization used in this Order shall have the same meanings as set forth in the Settlement Agreement, unless otherwise defined herein: and

WHEREAS, the Court has considered the Settlement Agreement and the other documents submitted by the Parties in connection with Plaintiffs’ Motion, and good cause appearing therefor:

IT IS ON THIS \_\_\_\_ day of \_\_\_\_\_, 2021 ORDERED as follows:

I. Preliminary Approval of the Settlement

1. Upon review of the record, the Court finds that the Settlement Agreement resulted from arm's-length negotiations between highly experienced counsel and falls within the range of possible approval. Therefore, the Settlement Agreement is hereby preliminarily approved, subject to further consideration thereof at the Fairness Hearing described below. The Court preliminarily finds that the Settlement set forth in the Settlement Agreement raises no obvious reasons to doubt its fairness and raises a reasonable basis for presuming that it satisfies the requirements of Fed. R. Civ. P. 23 and due process so that notice of the Settlement should be given as provided in this Order.

2. At or after the Fairness Hearing the Court shall determine, among other matters, whether the Settlement satisfied Rule 23(e) and warrants final approval.

II. Notice to the Class

3. The Court finds the proposed Notice to Class Members of the proposed Settlement Agreement as set forth in the Attached Notice Plan meets the requirements under Rule 23 and due process, and therefore is approved.

4. The Notice, substantially in the form attached hereto as Exhibit A, shall be disseminated no later than February 25, 2021.

III. Schedule and Procedure for Requesting Exclusion and Submitting Objections

5. The deadline for Class Members to request exclusion from the Class shall be April 25, 2021.

6. As set forth in the Notice, in order to request exclusion, a Class Member must mail a signed, written request for exclusion. The request must include: (1) the Class Member's

full name, address, and telephone number; and (2) a clear statement that the Class Member wishes to be excluded from the Settlement Class. The request must be signed by the Class Member, and not just by an attorney.

Written Exclusion request must be mailed, postmarked by April 25, 2021 to:

Class Action Opt Out & Objection  
Attn: Slade v. Progressive Security  
PO Box 58220  
Philadelphia, PA 19102

7. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above or the request for exclusion is otherwise accepted by the Court. Persons or entities that request exclusion from the Class shall not be entitled to share in the benefits of the Settlement, nor be bound by any judgment whether favorable or adverse.

8. On or before April 25, 2021, Class Counsel shall file a notice with the Court: (i) identifying those persons or entities requesting exclusion from the Class, if any; and (ii) informing the Court about the status and execution of the notice program as ordered herein.

9. As set forth in the Notice, Class Members who wish to object or otherwise be heard with respect to the Settlement Agreement must mail a written objection with specific reasons why the Court should not approve the Settlement. If represented by an attorney, both the objecting Class Member and the attorney must sign the objection. The must include the Class Member's full name, address, e-mail address, if any (an e-mail address is not required), and telephone number. The objection must also include the caption of this Litigation (*Slade v. Progressive Security Insurance Company*, Case No. 6:11-02614), a statement of whether the objecting Class Members wants to speak at the Fairness Hearing (see "The Court's Fairness Hearing," below), a list of any witnesses the objecting Class Member intends to call at

the hearing, the subject area of the witnesses' testimony, and all documents to be used or submitted to the Court at the hearing. The objection must be mailed, postmarked by April 25, 2021, to the address listed in Paragraph 6, supra, and to:

Clerk of Court  
U.S. District Court, Western District of Louisiana  
John M. Shaw United States Courthouse  
800 Lafayette St., Suite 2100  
Lafayette, Louisiana 70501

10. Any Class Member who does not make its objection in the manner provided above shall be deemed to have waived their right to object to any aspect of the Settlement Agreement and Counsel's requests for attorneys' fees, reimbursement of expenses, and/or application for class representative incentive payment and shall be forever barred and Foreclosed from objecting to the fairness, reasonableness or adequacy of the Settlement, or the requested attorneys' fees and expenses, or from otherwise being heard concerning the Settlement Agreement, the requested attorneys' fees and expenses in this or any other proceeding.

#### IV. The Court's Final Approval Schedule and Fairness Hearing Date

11. All briefs and materials in support of Class Counsel's fee and expense application, and application for class representative incentive payments shall be filed with the Court no later than \_\_\_\_\_, 2021. The applications described in this paragraph shall promptly be posted on the website created for the Settlement, [www.sladetotalloss.com](http://www.sladetotalloss.com), and shall be considered as separate and apart from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement. All briefs and materials in support of final approval of the Settlement Agreement also shall be filed with the Court no later than \_\_, 2021.

12. All reply submissions, including any responses to any objections by Class Members, shall be filed with the Court no later than \_\_\_\_\_, 2021.

13. A hearing on final approval of the Settlement (“Fairness Hearing”) shall be held before this Court on \_\_\_\_\_, 2021 at \_\_\_\_\_m. at the U.S. District Court for the Western District of Louisiana, Lafayette Division, John M. Shaw United States Courthouse, 800 Lafayette St., LA 70501. At this hearing, the Court will consider: (1) any properly submitted objections to the Settlement, (2) whether the Settlement is fair, reasonable, and adequate, (3) whether to grant final approval of Settlement, and (4) the amount of attorneys' fees and costs to be awarded to class counsel, and (5) any application for class representative incentive payments.

14. The Fairness Hearing may be rescheduled or continued; in this event, the Court will furnish all counsel with appropriate notice. Class Counsel shall be responsible for communicating any such notice promptly to the Class by posting conspicuous notice on the website created for the Settlement, [www.sladetotalloss.com](http://www.sladetotalloss.com).

15. All other proceedings in this Action shall be stayed pending the Fairness Hearing.

16. In the event that a Settlement does not become final, then, subject to approval of the Court, litigation of the Action will resume in a reasonable manner to be approved by the Court upon joint application by the Parties.

17. If the Court does not grant final approval of a Settlement or a Settlement is terminated in accordance with the applicable provisions of the Settlement Agreement, such Settlement shall be deemed null and void and shall have no further force and effect, and neither the Settlement nor the negotiations leading to it shall be used or referred to by any person or entity in this or in any other action or proceeding for any purpose.

18. Neither this Order nor the Settlement Agreements nor any Settlement—related document nor any proceeding undertaken in accordance with the terms set forth in the Settlement Agreements or in any other Settlement-related documents, shall constitute, be construed as or be deemed 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 Released Party, or likewise, constitute, be construed as, or be deemed to be an admission or evidence of or presumption against Class Plaintiffs or any other Class Member that any of their claims are without merit or infirm, that a class should not be certified, or that recoverable damages against Progressive Security would not have exceeded the Settlement Funds.

---

Hon. Michael Juneau